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Regulations

TITLE 10—WAR DEPARTMENT

Chapter VII—Personnel

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS, WARRANT OFFICERS AND CHAPLAINS

SECOND LIEUTENANTS

Sections 73.53[1] and 73.56 (d), (f) and (h)[2] are hereby amended to read as follows:

§ 73.53 *Apportionment of appointments.* The number of second lieutenants to be appointed in the Regular Army annually from Group 3 will be determined by the Secretary of War. These appointments will be divided among corps areas in proportion to the number of second-year advanced senior division Reserve Officer's Training Corps students of institutions, other than medical, within the continental United States which offer a college degree upon satisfactory completion of not less than a 4-year college course. (41 Stat. 774; 10 U.S.C. 484, amended by sec. 7, 53 Stat. 557) [Par. 2, A.R. 605–7, Dec. 31, 1940, as amended by Cir. 155, W. D., May 21, 1942.]

* * * * *

§ 73.56 *Method of selection.* * * *

(d) Upon arrival of the board at each school, all candidates authorized to appear before the board who desire to apply for appointments in the Regular Army will be requested to report to the board for examination. The examination will consist of study of the records submitted to the board by the professors of military science and tactics of the institution, and of any other records necessary to determine whether or not the applicants comply with all legal requirements for appointment as commissioned officers in the Regular Army and a physical and oral examination of each candidate. The candidates will be given an opportunity to express to the board their preference as to the arm or service, other than the Air Corps, in which they desire to be assigned but will be informed by the board that final assignment to arms or services will be determined by the War Department. They also will be informed by the board that actual appointment is subject to appropriations of the necessary funds by Congress, and to meeting the requirements of a final physical examination prior to appointment. The board will likewise interview the professor of military science and tactics at each school for the purpose of obtaining his views and recommendations concerning each applicant.

* * * * *

(f) The Adjutant General will appoint a board of officers of not less than one member of the G–1 Division, War Department General Staff, one member from the office of one of the chiefs of arms or services, and one member of the Adjutant General's Department, to examine the records submitted and to recommend candidates for appointment in the Regular Army, and assignment of the candidates selected to the arms or services, other than the Air Corps. The War Department board also will recommend a number of alternates in order of priority for each corps area similar to the number to be appointed therefrom. In all cases where the War Department board recommends a candidate for appointment in the Corps of Engineers or the Signal Corps, it will be indicated whether or not the chief of arm concerned concurs, and his reasons in case of nonconcurrence.

* * * * *

(h) Candidates selected by the War Department who pass satisfactorily the final physical examination will be tendered appointments as second lieutenants Regular Army, in the arms or services designated by the War Department. Date of appointment of those who graduate prior to July 1 will be on or about July 1 of each year if legally eligible for appointment on that date. Date of appointment of those who graduate on or after July 1 but prior to September 1

[1] 5 F.R. 256.
[2] 5 F.R. 257; 6 F.R. 832.

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FEDERAL REGISTER

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will be on or about September 1 of each year if legally eligible for appointment on that date. Date of appointment of those who are ineligible for appointment on July 1 or September 1 because they are less than 21 years of age will be the date upon which they become 21 years of age, if otherwise legally eligible for appointment at that time. In case any of these decline appointment, the appointment will be tendered to the next qualified alternate in order of priority indicated in paragraph (f) of this section, from the corps area in which the original appointee was selected. (41 Stat. 774; 10 U.S.C. 484 amended by Sec. 7, 53 Stat. 557) [Par. 5, AR 605–7, Dec. 31, 1940, as amended by Cir. 155, W.D., May 21, 1942]

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 42-5252; Filed, June 4, 1942; 11:33 a. m.]

PART 79—PRESCRIBED SERVICE UNIFORM

ORNAMENTATION OF OFFICERS SUMMER SERVICE UNIFORMS

Section 79.9 (b) (2) (v)[1] is hereby amended to read as follows:

§ 79.9 *Coat.* * * *

(b) *Service; summer; for officers and warrant officers.* * * *

(2) * * *

(v) *Ornamentation.* For officers a band of khaki color braid ½ inch in width on each sleeve, the lower edge 3 inches from end of sleeve. For warrant officers who served honorably as commissioned officers in the first World War a similar band of forest green braid similarly placed. Other warrant officers will have no braid on the sleeves. (R.S. 1296; 10 U.S.C. 1391) [Par. 9*a* (2), AR 600–35, Nov. 10, 1941, as amended by Cir. 165, W.D., May 29, 1942]

[SEAL] J. A. ULIO,
Major General,
The Adjutant General.

[F. R. Doc. 42-5253; Filed, June 4, 1942; 11:33 a. m.]

[1] 7 F.R. 12, 2987.

TITLE 24—HOUSING CREDIT

Chapter I—Federal Home Loan Bank Administration

[Bulletin No. 10]

PART 2—ORGANIZATION OF THE BANKS

AMENDMENT RELATING TO APPOINTMENT AND ELECTION OF DIRECTORS

JUNE 3, 1942.

The Rules and Regulations for the Federal Home Loan Bank System are hereby amended effective June 4, 1942 as follows:

Section 2.4 is amended by inserting therein the words "Federal Home Loan Bank Administration" in lieu of the words "Federal Home Loan Bank Board" and the word "Administration" in lieu of the word "Board" wherever the same is used in said section except in the title "Secretary to the Board" which is hereby amended to read "Secretary to the Federal Home Loan Bank Administration" wherever the same appears in said section, and except in the phrase "board of directors" wherever the same appears in said section, and paragraph (a) of said section is hereby further amended as follows:

1. Insert "and his title" before the word "or" in line 11 of the third undesignated paragraph of subparagraph (7).

2. Insert the following sentence between the fourth and fifth sentences of subparagraph (8): "In making choices of candidates listed on a ballot no member shall vote more than once for any one candidate."

3. Insert the following in lieu of the last sentence of subparagraph (10): "The Administration will also furnish each Bank and each member thereof the results of the election, showing, with respect to each directorship subject to the election, the name of each candidate, the name and address of the institution with which he is affiliated, the number of votes he received and the candidate declared elected. Upon the request of a candidate the Administration will furnish him with the number of votes each candidate received for the directorship for which he was a candidate."

4. Delete the third sentence of subparagraph (13) and insert the words "an officer" in lieu of the words "a member" in the last sentence of subparagraph (13).

5. Delete the first sentence of subparagraph (15).

6. Insert the word "War" in lieu of the word "Standard" in the second sentence of subparagraph (16).

(Sec. 17 of the FHLBA, 47 Stat. 736; 13 U.S.C. 1437; sec. 7 (c), (d), (e), of FHLBA, 47 Stat. 730, as amended by sec. 3, 49 Stat. 294; 12 U.S.C. 1427 (c), (d), (e), and Sup.; E.O. 9070, 7 F.R. 1529)

This amendment is deemed to be of a minor and procedural character within the provisions of paragraph (b) of § 8.3 of the Rules and Regulations for the Federal Home Loan Bank System.

[SEAL] JAMES TWOHY,
Governor.
HAROLD LEE,
General Counsel.
JOHN M. HAGER,
Executive Assistant to the Commissioner.

[F. R. Doc. 42-5215; Filed, June 3, 1942; 3:38 p. m.]

Chapter V—Federal Housing Administration

PART 501—CLASS 1 AND CLASS 2 PROPERTY IMPROVEMENT LOANS

Sec.

§§ 501.1 to 501.16, inclusive, issued under Public Law 111, 76th Cong., sec. 2, as amended by Public Law 138, 77th Cong., secs. 2 and 3, and Public Law 559, 77th Cong., sec. 13.

§ 501.1 *Citation.* The regulations in this part may be cited and referred to as "Regulations effective May 26, 1942, of the Federal Housing Commissioner governing the insurance of qualified lending institutions against loss resulting from Class 1 and Class 2 loans made under the provisions of Title I, Section 2, of the National Housing Act, as amended."

§ 501.2 *Definitions.* As used in the regulations in this part:

(a) The term "owner" includes, in addition to owners in fee, life tenants and persons holding an equity under a mortgage, trust or contract.

(b) The term "note" includes a note, bond, mortgage, or other evidence of indebtedness.

(c) The term "payment" includes a deposit to an account or fund.

(d) The term "instalment payment" includes that deposit to an account or fund which represents the partial repayment of an advance of credit.

(e) The term "loan" includes any loan, advance of credit, or purchase of an obligation representing a loan or advance of credit for the purpose of financing eligible repairs, alterations or improvements as authorized by the National Housing Act and by the regulations in this part.

(f) The term "Commissioner" means the Federal Housing Commissioner or his duly authorized representative.

(g) The term "borrower" means one who is an eligible owner or lessee of real property to be improved pursuant to the provisions of the Act and who applies for and receives an advance of credit in reliance upon the provisions of the Act.

(h) The term "Act" means the National Housing Act, as amended.

(i) The term "Contract of Insurance" includes all of the provisions of these Regulations and of the applicable provisions of the Act.

(j) The term "insured institution" means any bank, trust company, personal finance company, mortgage company, building and loan association, instalment lending company or other such financial institution which the Commissioner has found to be qualified by experience or facilities and has approved as eligible for credit insurance and to which he has issued a Contract of Insurance.

(k) The term "Class 1 (a) loan" means any loan, other than a loan defined in paragraph (l) of this section as a "Class 1 (b) loan", which is for the purpose of financing the repair, alteration, or improvement of an existing structure or of the real property in connection therewith, exclusive of the building of new structures.

(l) The term "Class 1 (b) loan" means any loan which is (1) made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure located in an area or locality in which the President shall find that an acute shortage of housing exists or impends which would impede national war activities and (2) is made for the purpose of providing additional living accommodations.

(m) The term "Class 2 (a) loan" means any loan which is for the purpose of financing the construction of a new structure which is not to be used in whole or in part either for residential or agricultural purposes.

(n) The term "Class 2 (b) loan" means any loan which is for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes.

(o) The term "Class 1 loan" includes both "Class 1 (a)" and "Class 1 (b)" loans as defined in paragraphs (k) and (l) of this section. The term "Class 2 loan" includes both "Class 2 (a)" and "Class 2 (b)" loans as defined in paragraphs (m) and (n) of this section.

(p) The term "Administration" means Federal Housing Administration.

§ 501.3. *Eligible notes.* A promissory note in order to be eligible for insurance:

(a) Shall bear the genuine signature, as maker, of an owner of the real property to be improved or of a lessee thereof under a lease having a fixed term expiring not less than six calendar months after the maturity of the loan or advance of credit.

(b) Shall be valid and enforceable in the jurisdiction in which it is issued and shall be complete and regular on its face.

(c) Shall be payable in equal monthly, semi-monthly, or weekly instalments. The final instalment may be more or less than the other instalments provided that it is not less than one-half or more than one and one-half times the preceding instalment. A note may not provide for a first payment less than six days nor more than sixty-two days from the date of the note. However, if fifty-one per cent or more of the income of the maker is derived directly from the sale of agricultural crops, commodities, or livestock produced by him, a note may be made payable in instalments corresponding to income periods shown on the credit statement. In such cases, the first payment must be made within twelve months of the date of the note and at least one payment must be made during each calendar year thereafter and the proportion of total principal to be paid in later years must not exceed the proportion of total principal payable in earlier years.

(d) Shall contain a provision for acceleration of maturity, either automatic or at the option of the holder, in the event of default in the payment of any instalment upon the due date thereof.

(e) Shall not have a final maturity of less than six calendar months from the date of the note. Shall not, in the case of Class 1 (a) or Class 2 (a) loans, have a final maturity in excess of three years and thirty-two days from the date of the note. Shall not, in the case of Class 1 (b) loans, have a final maturity in excess of seven years and thirty-two days from the date of the note. Shall not, in the case of Class 2 (b) loans have a maturity in excess of ten years and thirty-two days from the date of the note, provided that Class 2 (b) loans secured by a first mortgage, first deed of trust, or other security instrument constituting a first lien upon the improved property may have a final maturity not in excess of fifteen years and thirty-two days from the date of the note.

(f) May provide for a late charge, to be paid by the maker, not to exceed five cents (5¢) for each $1.00 of each instalment more than fifteen days in arrears. In lieu of late charges, notes may provide for interest on past due instalments at a rate not in excess of the contract rate in the jurisdiction in which the note is drawn. No late charge or interest on a past due instalment may be accrued in excess of $5.00. The borrower must be billed for the penalties collected as such, and evidence of such billing must be in the file if claim is made under the Contract of Insurance.

(g) May be in a series provided each is of an equal amount as provided in this Section and that each note indicates on its face that it is one of a series signed by the same maker.

§ 501.4 *Maximum loans.* (a) A Class 1 (a) loan shall not involve a principal

amount, exclusive of financing charges to the borrower, in excess of $2,500. A Class 1 (b) loan shall not involve a principal amount, exclusive of financing charges to the borrower, in excess of $5,000.

(b) A Class 2 loan shall not involve a principal amount, exclusive of financing charges to the borrower, in excess of $3,000.

(c) A Class 1 or Class 2 loan shall not increase the principal amount outstanding at any one time on all Class 1, Class 2, or Class 3 loans made under Title I of the Act after July 1, 1939 with respect to any one piece of property to an amount in excess of $5,000, exclusive of financing charges to the borrower.

(d) One borrower may obtain any number of loans to improve any number of separate pieces of property, subject to the requirements contained in § 501.6.

§ 501.5 *Maximum permissible financing charges.* (a) The maximum permissible financing charges, exclusive of fees and charges as provided by paragraph (e) of this section, which may be paid by the borrower for interest, discount and fees of all kinds in connection with the transaction, shall be computed as follows:

(1) Class 1 loans having a principal amount not in excess of $2,500 shall not have a financing charge in excess of an amount equivalent to $5.00 discount per $100 original face amount of a one year note, to be paid in equal monthly instalments calculated from the date of the note.

(2) Class 1 loans having a principal amount in excess of $2,500 shall not have a charge in excess of an amount equivalent to $4.00 discount per $100 original face amount of a one year note, to be paid in equal monthly instalments calculated from the date of the note.

(3) Class 2 loans shall not have a charge in excess of an amount equivalent to $5.00 discount per $100 original face amount of a one year note, to be paid in equal monthly instalments calculated from the date of the note.

Such charges correctly based on tables of calculations issued by the Federal Housing Commissioner are deemed to comply with this section.

(b) If the insured institution in purchasing a note takes the maximum charge permitted by this section, but employs a "holdback" and does not advance the entire proceeds of the note to the seller, it shall calculate its financing charge on the amount advanced and credit to the account of the seller the difference between the financing charge calculated on the face amount of the note and the financing charge calculated on the amount advanced.

(c) The acceptance of a voluntary payment of one or more instalments prior to due date shall not be construed as increasing the maximum permissible financing charge as provided in paragraph (a) of this section. However, if the entire balance outstanding on the loan is paid in advance the insured institution must make a rebate as follows: If the maximum permissible financing charge in connection with the transaction is in an amount equivalent to $5.00 discount as provided in paragraph (a) of this section, the insured institution shall make a rebate at a rate not less than 5% per annum of the amounts so paid in advance of their due dates. If a lesser charge has been taken, the rebate shall be at not less than a proportional rate.

(d) An increase in the ratio of the charge to the average amount outstanding on the debt over the maximum provided in this section, which increase results from the first payment falling due less than thirty days after the date of the note as provided in paragraph (c) of § 501.3, shall not be deemed to be in conflict with this section.

(e) If the insured institution takes security in the nature of a real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, mechanic's lien, or other security device for the purpose of securing the payment of eligible loans, the insured institution may collect from the borrower, in addition to the maximum permissible financing charge as provided in paragraph (a) of this section, the following expenses actually incurred by the institution in connection with the transaction: Recording or filing fees, documentary stamp taxes, title examination charges and hazard insurance premiums, provided that such costs or expenses are not paid from the proceeds of the loan or included in the face amount of the note. Such costs or expenses shall not be included by the insured institution as a portion of a claim under the Contract of Insurance and if such costs or expenses are assessed against the borrower, proper evidence thereof should be in the file.

(f) The excess of any amount paid or applied at one time to an insured obligation above the amount then due thereon, when such excess exceeds the amount of three instalments, shall be applied to the final instalments in reverse order, unless the insured institution is required by law or is directed by the person making the payment to make some other application, in which case evidence of such direction must be in the file if claim is made upon the Commissioner.

§ 501.6 *Credits.* (a) The insured institution shall, prior to making an advance of credit, obtain a signed and dated Credit Statement-Application from the borrower, on a form approved by the Commissioner. The Credit Statement-Application must, in the judgment of the insured institution, clearly show the borrower to be solvent with reasonable ability to pay the obligation and in other respects a reasonable credit risk.

(b) A separate Credit Statement-Application is required in connection with each loan made or note purchased.

(c) An insured institution acting in good faith may, in the absence of information to the contrary, rely upon all statements of fact made by the borrower which are called for by the borrower's Credit Statement-Application, in determining the credit risk and eligibility of the transaction. The Commissioner does not place upon the insured institution the burden of verifying the truth of any such statements. Even if such statements are investigated after the loan is made and found to be false, this will not affect in any way the eligibility of the note for insurance. However, any borrower making false statements or misusing the funds, or any dealer, contractor, or lender who knowingly assists in such a violation, may be committing a Federal offense and will be subject to the penal provisions of the National Housing Act. In all cases where the insured institution discovers a material misstatement in the Credit Statement-Application, or misuse of the funds, it must promptly report such a discovery to the Commissioner.

(d) A loan shall not be made to a borrower who is delinquent at the time the loan is made, as to either principal or interest, with respect to an obligation owing to or insured by any department or agency of the Federal Government.

(e) Any Class 1 or Class 2 loans in excess of $2,500 to any individual borrower, exclusive of financing charges, or any Class 1 or Class 2 loan which increases the amount outstanding as to all loans made under Title I of the Act after July 1, 1939, including Class 3, to any individual borrower to an amount in excess of $2,500 will be accepted only upon prior approval of the Commissioner.

(f) A note shall not be purchased when any instalment thereon is delinquent more than fifteen days at the date of purchase except purchases of notes under the provisions of § 501.12.

§ 501.7 *Eligible improvements.* (a) A loan must be for the purpose of financing eligible improvements within the United States, its Territories and Possessions, commenced on or after July 1, 1939, and prior to July 1, 1943, in reliance upon the credit facilities afforded by Title I of the National Housing Act.

(b) The proceeds of a loan shall be used only to finance alterations, repairs, and improvements upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, cyclone, flood, or other catastrophe).

(c) The proceeds of a loan shall not be used to finance the cost of completing an unfinished structure.

(d) The proceeds of a Class 1 (a) loan shall be used only to finance the cost of alterations, repairs, and improvements upon or in connection with existing structures. The term "Existing structure" means a completed building that has or had a distinctive functional use.

(e) The proceeds of a Class 1 (b) loan shall be used only to finance the cost of alterations, repairs, improvements or conversion upon or in connection with existing structures located in an area or locality in which the President shall find that an acute shortage of housing exists or impends which would impede national war activities, and which is made for the purpose of providing additional living accommodations. The borrower shall

establish in a manner and upon forms prescribed by the Commissioner that occupancy priority will be given to war workers.

(f) The proceeds of Class 1 and Class 2 loans shall not be used to supplement another loan or advance of credit not reported for insurance, the payment of which is to be secured by a prior lien created in connection with proposed alterations, repairs, or improvements to an existing structure, or with the building of a new structure.

(g) The proceeds of a loan shall not be used for the purchase of land.

(h) The proceeds of a loan may be used to pay for architectural and engineering services performed in connection with eligible alterations, repairs, or improvements financed in accordance with the regulations in this part.

(i) The proceeds of a loan shall not be used for the purpose of refinancing existing obligations not previously reported for insurance.

(j) Where any doubt exists as to the eligibility of a transaction which is to be financed with an insured loan, the facts of the case should be submitted to the Commissioner for a decision and ruling.

§ 501.8 *Completion Certificate; statements.* (a) An insured institution may not disburse the proceeds of a loan to one other than the borrower or the borrower and another jointly until it has first:

(1) Obtained a Completion or Installation Certificate bearing the date of signature and signed by the borrower in the following or substantially similar form:

BORROWER'S COMPLETION CERTIFICATE

Notice to Borrower. Do not sign this Certificate until the work is satisfactorily completed.*

Dated at_____, _____, 19____.

I (we) the undersigned hereby certify that all articles and materials have been furnished and installed and the work satisfactorily completed on premises at_____, in accordance with my application for a loan dated_____, pursuant to the provisions of Title I of the National Housing Act, as amended.

(Signature)_____

_____

*(Insured Institution please note) The wording "Notice to borrower—Do not sign this Certificate until the work is satisfactorily completed" must be in type size at least three times the size of the next largest type appearing on the form of Borrower's Completion Certificate.

(2) Obtained a statement bearing the date of signature and signed by the dealer, contractor, or applicator in the following, or substantially similar, form:

DEALER/CONTRACTOR/APPLICATOR STATEMENT

_____, 19____.

To the_____(lending institution) of

_____

In consideration of your accepting the note of_____(Name of borrower(s)) for $_____, dated _____, we (I) hereby certify that all articles and materials contracted for have been furnished and installed and the work fully completed, that the signature(s) on the note and Completion Certificate are genuine, that the Completion or Installation Certificate was signed after the articles and materials contracted for had been furnished and installed and the work fully completed.

(Signature)_____

Name

_____

Title

(3) Obtained a written authorization bearing the date of signature and signed by the borrower authorizing payment of the proceeds to the person to whom paid, in the following, or a substantially similar, form:

BORROWER'S AUTHORIZATION FORM

_____, 19____.

I (we) hereby authorize and direct the _____ (financial institution) to pay $_____ of the proceeds of my (our) note dated _____, for $_____ to _____.

(Signature)_____

(b) For the purpose of this section, if there are two or more eligible borrowers involved in the transaction only one signature is required on the Completion Certificate or Authorization Form, provided that the signature so obtained is that of a borrower as defined by § 501.2 (g).

§ 501.9 *Refinancing.* (a) New obligations to liquidate loans previously reported for insurance pursuant to Title I of the Act after July 1, 1939, which may or may not include an additional amount advanced will be covered by insurance: *Provided,* That:

(1) They meet the requirements of all applicable regulations;

(2) They are reported to the Commissioner on the proper form within 31 days from date of execution;

(3) (i) Class 1 loans reported for insurance prior to the effective date of these Regulations may be refinanced for an additional period not in excess of three years and thirty-two days from the date of the refinancing, but not to exceed five years from the date of the original note: *Provided,* That such loans having an original principal amount exclusive of financing charges in excess of $2,500 may be refinanced for an additional period not in excess of five years and thirty-two days from the date of the refinancing, but not to exceed seven years from the date of the original note.

(ii) Class 1 (a) loans may be refinanced for an additional period not in excess of three years and thirty-two days from the date of the refinancing, but not to exceed five years from the date of the original note.

(iii) Class 1 (b) loans may be refinanced for an additional period not in excess of seven years and thirty-two days from the date of the refinancing, but not to exceed ten years from the date of the original obligation.

(iv) Class 2 (a) loans may be refinanced for an additional period not to exceed three years and thirty-two days from the date of the refinancing, but not to exceed five years from the date of the original note.

(v) Class 2 (b) loans may be refinanced for a maturity not in excess of the maximum permitted under the regulations from the date of the original obligation in this part.

(vi) Where a Class 1 loan or Class 2 loan is made or refinanced and consolidated with another Class 1 or Class 2 loan, the note which evidences the consolidated obligation shall not be for a longer term than that which the component loan having the shortest permissible maturity could have if made or refinanced alone.

(vii) The Commissioner may upon presentation of the facts approve the refinancing or refinancing and consolidation of any loan or loans upon such terms and conditions as he may determine within the limits provided by the Act.

(4) If an additional advance is made, the full unearned charge on the original note shall be refunded to the borrowers;

(5) If no additional advance is made, the full unearned charge on the original note shall be refunded to the borrower, except that a handling charge not in excess of $2.00 may be assessed to the borrower;

(6) They are evidenced by notes which meet with the requirements of § 501.3 and other applicable sections.

(b) An agreement to defer payments on a note previously reported for insurance under the regulations in this part without rewriting the note will not affect the insurance coverage on the loan provided that:

(1) Such agreement is evidenced in writing;

(2) Payments shall not be deferred for more than five months from the due date of the last fully-paid instalment;

(3) Such agreement shall not extend the final maturity of the obligation beyond the maturity date of the obligation as provided by its original terms;

(4) If the lending institution assesses the borrower for the cost of such deferment, such charge may not be in excess of an equivalent amount of late charges as provided in § 501.3 (f).

§ 501.10 *Report of loans.* Loans shall be reported on the proper form to the Federal Housing Administration at Washington, D. C., within thirty-one days from the date of the note or date upon which it was purchased. Any loan refinanced as provided in § 501.9 shall likewise be reported on the proper form within thirty-one days from date of refinancing. In any case, the Commissioner may, in his discretion, accept a late report.

§ 501.11 *Claims.* (a) Claim for reimbursement for loss on a qualified loan shall be made as provided in this subsection.

(1) Claim for reimbursement for loss on a qualified loan may be made to the Commissioner after default on any instalment, provided demand has been made upon the debtor for the full unpaid balance.

(2) For the purpose of this paragraph, any payment received on an account, including payments on a judgment predicated thereon, shall be applied to the earliest unpaid instalment, and whenever any instalment is six months in ar-

rears, claim shall be made within thirty-one days.

(3) In the case of yearly instalment notes, whenever an instalment is twelve months in arrears claim must be made within thirty-one days thereafter.

(4) Upon presentation to him of the facts of a particular case within the allowable claim period prescribed in this paragraph, the Commissioner may, in his discretion, extend the time within which claim must be made.

(5) If at any time during default a person primarily or secondarily liable for the repayment of any loan is a "person in military service", as such term is defined in the Soldiers' and Sailors' Civil Relief Act of 1940, the period during which he is in military service shall be excluded in computing the time within which claim must be made for reimbursement under the provisions of this section.

(b) Subject to § 501.12, claim may be made only for loss sustained by the insured institution itself, and may include:

(1) Net unpaid amount of advance actually made or the actual purchase price of the note, whichever is the lesser;

(2) Uncollected earned interest (after default interest is not to be claimed at a rate to exceed 4% per annum and will be calculated to the date the claim is approved for payment);

(3) Uncollected court costs, including fees paid for issuing, serving, and filing summons;

(4) Attorney's fees not exceeding 15% of the amount collected by the attorney on the defaulted note;

(5) Handling fee of $5.00 for each loan, if judgment is secured, plus 5% of amounts collected subsequent to return of unsatisfied property execution.

(6) An insured institution may not waive its claim against the borrower for attorney fees and subsequently call upon the Commissioner for payment of such an item.

(c) Claim shall be made on a form provided by the Commissioner, filled out completely and executed in duplicate by a duly qualified officer of the insured institution. If the regulations have been complied with, payment of the loss will be made on audit of the claim and upon proper assignment to the United States of America, of the note upon which the loss occurred together with any security taken to secure payment thereof. Any security or judgment taken must be assigned and if any claim has been filed in bankruptcy, insolvency, or probate proceedings, such claim shall likewise be assigned to the United States of America.

(d) Where a real estate mortgage, deed of trust, or conditional sales contract, chattel mortgage, mechanic's lien, or any other security device has been used to secure the payment of loans for eligible purposes, the insured institution may not both proceed against such security and also make claim under its Contract of Insurance, but shall elect which method it desires to pursue. However, an insured institution may permit the substitution of security provided it can be shown, if claim is made, that the original security value was not impaired or reduced as a result of such action. If claim is made, all security shall be assigned, in its entirety, to the United States of America. If the security taken is nonassignable, all rights in such security shall be exhausted by the insured institution or the claim against the Commissioner reduced by the full face amount of the security taken before claim will be paid by the Commissioner.

(e) The following form of assignment properly dated shall be used in assigning a note, judgment, real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, mechanic's lien, or any other security device in event of claim:

All right, title, and interest of the undersigned is hereby assigned (without warranty, except that the note qualifies for insurance) to the United States of America.

(Financial institution)

By ---
Title

(date)

Provided, That, if this form is not valid or generally acceptable in the jurisdiction involved, a form which is valid and generally acceptable shall be used.

§ 501.12 *Insurance reserve.* (a) Subject to the limitation that his total liability which may be outstanding at any one time plus the amount of claims paid in respect of all insurance heretofore and hereafter granted shall not exceed $165,000,000, the Commissioner, in accordance with § 501.11, will reimburse any insured institution for losses sustained by it up to a total aggregate amount equal to 10% of the total amount advanced by it with respect to Class 1, Class 2, and Class 3 loans during the time its Contract of Insurance is in force, on all eligible obligations previously reported for insurance, taken or purchased by it on and after July 1, 1939, and held by it, or on which it remains liable.

(b) If the obligations previously reported for insurance under a Contract of Insurance issued pursuant to the National Housing Act, as amended, effective July 1, 1939, are sold to another insured institution endorsed with or without recourse, the buying and selling institutions may agree, with the prior approval of the Commissioner, to transfer all or any part of the insurance reserve standing to the credit of the selling institution, to the purchasing institution. Where the parties agree to transfer an insurance reserve in excess of 10% of the actual purchase price of the obligations involved, or in excess of 10% of the net unpaid original advance on the obligations involved, whichever is the lesser, the entire insurance reserve transferred may be used to pay only those claims arising out of defaults occurring in the transferred obligations. When the obligations so transferred have all been fully paid to the purchasing institution, it shall so notify the Commissioner, and any insurance reserve remaining unused shall thereupon revert to the institution from which it was originally transferred.

(c) Where the parties agree to transfer an insurance reserve not in excess of 10% of the actual purchase price of the obligations involved, or not in excess of 10% of the net unpaid original advance on the obligations involved, whichever is the lesser, the insurance reserve so transferred will be credited to the general reserve of the purchasing institution in the absence of any agreement to the contrary between the purchasing and selling institutions.

(d) The transfer of insurance reserve in cases of merger or consolidation of two or more insured institutions, or of an insured with an uninsured institution, will be provided for by the Commissioner in accordance with the facts of the particular case.

(e) In all cases involving the transfer of insured obligations the reports required by § 501.10 must be filed and shall indicate the intent of the parties with regard to the transfer of the insurance reserve and, except for those cases in which the transfers are effected as provided for by paragraph (b) of this section, must show that no note to be transferred is delinquent more than one calendar month at the time of such transfer.

(f) Where the notes are transferred without recourse, guarantee, or repurchase agreement and the reports do not indicate the intent of the parties, the insurance reserve will be transferred to the general reserve of the purchasing institution on the basis of 10% of the actual purchase price of the obligations involved, or 10% of the net unpaid original advance on the obligations involved, whichever is the lesser.

(g) Where the transfer of the obligations is with recourse or under a guarantee or purchase agreement no reports will be required and no insurance reserve will be transferred.

(h) The selling price on the transfer of an insured note between insured institutions will not affect the insurance on the note. The calculation of insured loss will be based on the original transaction of the institution first reporting the loan for insurance.

(i) Where notes reported for insurance by one insured institution are pledged to another insured institution as security for a loan, an assignment of the pledging institution's insurance reserve may be made with the prior consent of the Commissioner provided requests for such consent are accompanied by a signed agreement between the two institutions.

(j) Amounts which may be salvaged by the Commissioner with respect to a loan in connection with which an institution has been reimbursed under its Contract of Insurance shall not be added to the insurance reserve remaining to the credit of such institution.

§ 501.13 *Insurance charge.* (a) Insured institutions shall pay to the Administration an insurance charge equal to three-fourths of one per centum per annum of the net proceeds of any loan reported for insurance.

(b) Such insurance charge for the entire term of the loan shall be paid by check or draft within twenty-five days after the date the Commissioner acknowledges receipt to the insured institution of the report of loan: *Provided,* That with respect to Class 1 (b) and

Class 2 (b) loans having a maturity in excess of three years and thirty-two days from the date of the note, such charge may be paid in instalments, the first of which shall be equal to the charge for three years and payable within twenty-five days after the date the Commissioner acknowledges receipt to the insured institution of the report of loan. Succeeding instalments shall be equal to the charge for one year and shall be payable on the anniversary of the first day of the month following the date of the note until the insurance charge is paid in full.

(c) When the proceeds of any loan are used to liquidate a loan reported for insurance under regulations issued subsequent to June 30, 1939, there shall be deducted from the amount of the insurance charge the pro rata share of the insurance charge paid on the original obligation.

(d) There shall not be refunded any portion of the insurance charge or any instalment or instalments thereof which have been paid by the insured institution with respect to any loan, unless it is subsequently found to have been in whole or in part ineligible for insurance, in which event the insurance charge paid with respect to the ineligible portion of the advance shall be refunded by the Administration to the insured institution.

(e) The purchaser of an insured obligation shall not be required to pay the insurance charge provided in this section with respect to the insurance of any obligation transferred under the provisions of § 501.12 with respect to which an insurance charge has previously been paid by the seller, and no refund shall be made to the seller as to any part of the insurance charge previously paid with respect to any obligation so transferred: Except, that the purchaser of a Class 1 (b) or Class 2 (b) loan previously reported for insurance shall pay each succeeding instalment of the insurance charge as provided in paragraph (b) of this section. Any adjustments of the insurance charge paid with respect to the insurance of any obligation transferred shall be made between the purchaser and the seller.

(f) The insurance charge paid by the insured institution shall not be charged to the borrower if such charge would cause the total payments made by the borrower to exceed the maximum permissible amount which may be charged to the borrower for interest, discount, and all other charges in connection with the transaction.

(g) Subject to the other provisions of the regulations in this part, the insurance granted under Title I of the National Housing Act, as amended, shall be effective with respect to any loan from the date of the report thereof to the Commissioner provided that the insurance charge with respect to such loan is paid as required by this section.

(h) In the event a Class 1 (b) or Class 2 (b) loan is paid in full prior to maturity, or claim is filed with the Administration, the insured institution's obligation to pay future instalments of the insurance charge in connection with such loan shall cease but it shall not be entitled to a refund of any portion of any insurance charge previously paid nor a reduction in the amount of any instalment of such charge, which fell due prior to the date of such prepayment or filing of claim.

§ 501.14 *Administrative reports and examination.* The Commissioner, in his discretion, may at any time or from time to time call for a report from any institution on the delinquency status of the obligations held by such institution and reported for insurance, or call for such reports as he may deem to be necessary in connection with these Regulations, or he or his authorized representative may inspect the books or accounts of the lending institution as they pertain to the loans reported for insurance.

§ 501.15 *Amendments.* The regulations in this part may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the insurance privileges of an insured institution with respect to any loan made or obligation purchased prior to the issuance of such amendment.

§ 501.16 *Effective date.* The regulations in this part are effective as to all Class 1 and Class 2 loans, advances of credit or purchases made on or after May 26, 1942, pursuant to the provisions of Title I of the National Housing Act, as amended, and shall have the same force and effect as if included in and made a part of each Contract of Insurance.

Issued at Washington, D. C., May 26, 1942.

[SEAL] ABNER H. FERGUSON,
Federal Housing Commissioner.

[F. R. Doc. 42-5228; Filed, June 4, 1942; 9:32 a. m.]

PART 502—CLASS 3 PROPERTY IMPROVEMENT LOANS[1]

Amendment of §§ 502.2 (c), 502.6 (c), 502.10 (c), 502.11 (b), 502.11 (g), 502.13 (f), 502.14 of the regulations effective July 1, 1941, as amended issued by the Federal Housing Administrator in connection with property improvement loans under Title I of the National Housing Act as amended.

Section 502.2 (c) of the regulations effective July 1, 1941, is amended to read as follows:

§ 502.2 *Definitions.* * * *

(c) The term "Commissioner" means the Federal Housing Commissioner. Whenever used, the term "Administrator" means the Federal Housing Commissioner.

* * * * *

Section 502.6 (c) is amended by substituting in the place of the first sentence thereof the following:

§ 502.6 *Credits.* * * *

(c) An insured institution acting in good faith may, in the absence of information to the contrary, rely upon all statements of fact made by the borrower which are called for by the borrower's Credit-Statement-Application. * * *

* * * * *

Section 502.10 (c) is hereby amended to read as follows:

§ 502.10 *Refinancing.* * * *

(c) They have a maturity not in excess of the maximum permitted under these Regulations from the date of the refinancing obligation, but not to exceed twenty-five years from the date of the original note.

* * * * *

Section 502.11 (b) is hereby amended by adding paragraph (5) to read as follows:

§ 502.11 *Claims.* * * *

(b) * * *

(5) If the borrower is a person in military service as defined in such Act, the insured institution may, by written agreement with the borrower, postpone for the period of military service, and three months thereafter, that part of the monthly payment, or any part thereof which represents amortization of principal, provided such agreement contains a provision for the resumption of monthly payments thereafter in amounts which will completely amortize the mortgage debt within its original maturity. Such agreement, however, will in no way affect the amount of the annual insurance charge which will continue to be calculated in accordance with the provisions of § 502.12.

* * * * *

Section 502.11 (g) is hereby amended by substituting in the place of the first sentence thereof the following:

(g) In lieu of the procedure provided for in paragraphs (d) and (e) of this section, the insured institution, after acquiring title to the property as provided in this section, may, at its option and with the approval of the Commissioner, sell the same in the open market to a bona fide third party at any time within six months from the date of such acquisition of the property, or within such further time as may be approved by the Commissioner. * * *

Section 502.13 (f) is hereby amended to read as follows:

§ 502.13 *Insurance reserve.* * * *

(f) Where the transfer of the obligations is with recourse or under a guarantee or purchase agreement no reports will be required and no insurance reserve will be transferred.

Section 502.14 is hereby amended by adding a paragraph (f) to read as follows:

§ 502.14 *Privileges extended to loans reported for insurance under previous regulations.* * * *

(f) The provisions of § 502.11 (b) (5) shall apply with respect to any Class 3 loan heretofore or hereafter reported for insurance. (Pub. Law 111, 76th Cong., sec. 2, and Pub. Law 138, 77th Cong., sec. 2.)

[1] 6 F.R. 3325, 3383, 4603

The Amendments contained herein are hereby declared to have the same force and effect as if included in and made a part of each Contract of Insurance, and are effective May 26, 1942.

[SEAL] ABNER H. FERGUSON,
Federal Housing Commissioner.

MAY 26, 1942.

[F. R. Doc. 42-5229; Filed, June 4, 1942; 9:32 a. m.]

PART 522—MUTUAL MORTGAGE INSURANCE OF THE NATIONAL HOUSING ACT [1]

Section 522.3 (b) is hereby amended by adding before the last sentence thereof the following new subparagraph to read as follows:

§ 522.3 *Premiums.* * * *

(5) Where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments which in any one calendar year exceed fifteen per centum (15%) of the original face amount of the mortgage, if made by the mortgagor during the period of the national emergency declared by the President to exist on May 27, 1941; or where the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity by the mortgagor during the period of such national emergency, provided the mortgagee submits to the Commissioner a certificate signed by the mortgagor certifying that the mortgage has been paid in full without refinancing or otherwise creating any obligation or debt for which the mortgagor or property owned by the mortgagor is liable.

Section 522.13 is hereby amended by adding to the last paragraph thereof the following:

§ 522.13 *Transfer of property to the Administrator; conditions of default in mortgage.* * * *

If the mortgagor is a person in military service as defined in such Act, the mortgagee may, by written agreement with the mortgagor, postpone for the period of military service, and three months thereafter, that part of the monthly payment, or any part thereof which represents amortization of principal, provided such agreement contains a provision for the resumption of monthly payments thereafter in amounts which will completely amortize the mortgage debt within its original maturity. Such agreement, however, will in no way affect the amount of the annual mortgage insurance premium which will continue to be calculated in accordance with the original amortization provisions.

(Sec. 211, as added by sec. 3, 52 Stat. 23; 12 U.S.C. 1715b)

Issued at Washington, D. C. this 26th day of May 1942.

ABNER H. FERGUSON,
Federal Housing Commissioner.

[F. R. Doc. 42-5230; Filed, June 4, 1942; 9:31 a. m.]

[1] 6 F.R. 3333.

PART 576—ADMINISTRATIVE RULES FOR WAR HOUSING INSURANCE [1]

APPROVAL OF MORTGAGEES

APPROVAL OF ACCEPTABLE ASSIGNEES

APPLICATION AND COMMITMENT

ELIGIBLE MORTGAGES

ELIGIBLE MORTGAGORS

ELIGIBLE PROPERTIES

AUTHORITY: §§ 576.1 to 576.38, inclusive, issued under Pub. Law 24, 77th Cong., as amended by Pub. Law 559, 77th Cong.

NOTE: The word "defense" appearing in Subchapter H—Part 576 has been changed in this revision to the word "war" to conform with the amendments to Title VI of the National Housing Act, approved May 26, 1942.

Approval of Mortgagees

§ 576.1 *Governmental institutions and mortgagees approved under section 203 (b) of the National Housing Act, approved as mortgagees.* The following institutions are hereby approved as mortgagees under section 603 (b) of the National Housing Act.

(a) National Mortgage Associations,
(b) Federal Reserve Banks,
(c) Federal Home Loan Banks,
(d) Reconstruction Finance Corporation,
(e) RFC Mortgage Company, and
(f) any other Federal, State, or municipal governmental agency that is or may hereafter be empowered to hold mortgages insured under Title II or Title VI of the National Housing Act as security or as collateral or for any other purpose.
(g) any mortgagee approved under section 203 (b) of the National Housing Act.

§ 576.2 *Federal Reserve members, other institutions.* Members of the Federal Reserve System, institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation and institutions whose deposits are insured by the Federal Deposit Insurance Corporation may be approved as mortgagees upon application.

§ 576.3 *Charitable or nonprofit organizations.* Any charitable or nonprofit organization which presents evidence that it is responsible, has permanent funds of not less than $100,000, and has experience in mortgage investment, may be approved upon application.

§ 576.4 *Approval of other institutions.* Any other institution not hereinbefore mentioned may be approved as a mortgagee upon application if it has the following qualifications and meets the following conditions to the satisfaction of the Commissioner:

(a) It is a chartered institution or other permanent organization having succession;

(b) It is subject to the inspection and supervision of a governmental agency which is required by law to make periodic examinations of its books and accounts and it submits satisfactory evidence that it has sound capital funds of a value of not less than $25,000 (or if a mutual company or association without capital funds, it has a net worth of not less than $25,000); or

if not subject to such inspection and supervision of a governmental agency, it shall submit an independent detailed audit of its books made by an accountant satisfactory to the Commissioner and reflecting a condition satisfactory to him, and also, so long as its approval as mortgagee continues, shall file with the Commissioner similar audits at least once in each calendar year and submit at any time to such examination of its books and affairs as the Commissioner may require, and comply with any other conditions that the Commissioner may impose;

(c) Its principal activity is lending on or investing in mortgages, funds which are under its own control; and it has sound capital funds properly proportioned to its liabilities and to the character and extent of its operations. Such funds shall be of a value of not less than $100,000. It is provided that the qualification and condition contained in the preceding sentence shall not apply:

(1) To an institution or other permanent organization of the character described in the first division of paragraph (b) of this section; or

(2) To an institution or other permanent organization that establishes to the satisfaction of the Commissioner

[1] Parts 576 and 577 are amended.

that it is a duly authorized loan correspondent of, and whose approval is requested by, an approved mortgagee or assignee which lends on, or invests in, mortgages on a national scale and is subject to the inspection and supervision of a governmental agency, on the condition that the termination of its relationship as such correspondent will be cause (subject to the provisions of § 576.6) for withdrawal of its approval as an approved mortgagee and on the further condition that the correspondent institution and the institution for which it is authorized to act shall agree to notify promptly the Commissioner of the termination of such relationship and on the further condition that the correspondent institution shall agree to originate insured mortgage loans for the purpose of sale only to the institution or institutions which requested its approval or to some other institution for which it regularly acts as mortgage loan correspondent under written agreement which has been submitted to and approved by the Commissioner; and

(d) If it is not an institution or other permanent organization of the character described in the first division of paragraph (b) of this section, it shall submit an agreement in writing: (1) that so long as it continues to be approved as a mortgagee, it will not issue any mortgage participating certificates on which it assumes personal liability, or issue any guaranty with respect to principal or interest of any mortgage, except that any such obligations outstanding on the date of the application of such institution may thereafter be renewed; and (2) that it will segregate all monthly payments under mortgages insured by the Commissioner, received by it on account of ground rents, taxes, assessments, and insurance premiums, and will deposit such funds in a special account, or accounts, with some banking institution whose accounts are insured by the Federal Deposit Insurance Corporation and shall use such funds for no purpose other than that for which they were received.

§ 576.5 *Approval of fiduciary investments.* Approval as a mortgagee under §§ 576.1–576.8, of a banking institution or trust company which is subject to the inspection and supervision of a governmental agency, shall be deemed to constitute approval of such institution or company when lawfully acting in a fiduciary capacity in investing fiduciary funds which are under its individual or joint control. Upon termination of such fiduciary relationship, whether by revocation or otherwise, any insured mortgages held in the fiduciary estate shall be transferred to a mortgagee approved under this or the succeeding section and the fiduciary relationship must be such as to permit such transfer.

Nothing in §§ 576.1–576.8 shall be construed to permit the sale to the general public of instruments representing the beneficial interest in all or part of one or more insured mortgages.

§ 576.6 *Approval may be withdrawn.* Approval of an institution as a mortgagee may be withdrawn at any time by notice from the Commisisoner. In the discretion of the Commissioner, the transfer of an insured mortgage to a mortgagee not approved to act under §§ 576.1–576.11, or the failure of a mortgagee not subject to the inspection and supervision of a governmental agency, to segregate all funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, and to deposit such funds in a special account, or accounts, with some banking institution whose accounts are insured by the Federal Deposit Insurance Corporation, or the use of such funds for any purpose other than that for which they were received, or the failure of a mortgagee to conduct its business on the plan indicated by its application for approval, or the termination of its supervision by a governmental agency will be cause for withdrawal of approval. Withdrawal of approval will in no case affect the insurance on mortgages theretofore accepted for insurance.

§ 576.7 *Financial statements to be furnished.* All approved mortgagees shall at any time upon request furnish the Commissioner with a copy of their latest periodic financial statement or report.

§ 576.8 *Proper servicing of mortgages.* All approved mortgagees are required to service insured loans in accordance with acceptable mortgage practices of prudent lending institutions. In the event of default, the mortgagee should be able to contact the mortgagor and otherwise exercise diligence in collecting the amounts due. The holder of the mortgage is responsible to the Commissioner for proper servicing, even though the actual servicing may be performed by an agent of such holder.

Approval of Acceptable Assignees

§ 576.9 *Requisites for approval as assignee.* The Commissioner will upon application approve a chartered institution or other permanent organization as an acceptable assignee if such institution or organization meets the following conditions to the satisfaction of the Commissioner:

(a) It is a corporation or other permanent organization having succession;

(b) It has sound capital funds of not less than $100,000.

(c) It is subject to the inspection and supervision of a governmental agency;

(d) Its investments in mortgage loans are intended for its own portfolio; and

(e) Its facilities are such that it will be able properly to service mortgages held by it.

§ 576.10 *Acquisition of insured mortgages.* Such an acceptable assignee shall be entitled to acquire insured mortgages from approved mortgagees by assignment after the execution and insurance of such mortgages, and to hold such mortgages without invalidating the insurance thereof, and to service them while so held. An acceptable assignee is not authorized to initiate insured mortgage loans originally or to apply for the insurance of mortgages under section 603 (a) of the National Housing Act; but shall in all other respects be considered as included in the term "mortgagee" as used in the administrative rules in this part and the regulations of the Federal Housing Commissioner in Part 577.

§ 576.11 *Withdrawal of approval.* Approval of an institution as an acceptable assignee may be withdrawn at any time by notice from the Commissioner. Except in individual cases, approved by the Commissioner, transfer of an insured mortgage to a mortgagee not approved to act under §§ 576.1–576.11 will be cause for withdrawal of approval. Withdrawal of approval will in no case affect the insurance on mortgages theretofore accepted for insurance.

Application and Commitment

§ 576.12 *Submission of application.* Any approved mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed.

§ 576.13 *Form of application.* The application must be made upon a standard form prescribed by the Commissioner.

§ 576.14 *Fee to accompany application.* The application must be accompanied by the mortgagee's check for a sum computed at a rate of $3 per thousand dollars of the original principal amount of the mortgage loan applied for to cover the costs of appraisal by the Commissioner, but in no case shall such sum be less than $10. If an application is refused without an appraisal being made by the Commissioner, the fee will be returned to the applicant but no portion of the fee will be returned after appraisal or on account of any difference between the amount applied for and the amount approved for insurance.

If, after insurance, the outstanding principal amount of an insured mortgage is increased by the substitution of a new insured mortgage, the fee herein provided for shall be based upon the amount of such increase but in no case shall be less than $10.

§ 576.15 *Approval of application.* Upon approval of an application, acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth, upon a form prescribed by the Commissioner, the terms and conditions upon which the mortgage will be insured.

Eligible Mortgages

§ 576.16 *Form, lien.* The mortgage must be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated, by a mortgagor with the qualifications hereinafter set forth in §§ 576.29–576.33, must be a first lien upon property that conforms with the property standards prescribed by the Commissioner, and the entire principal amount of the mortgage must have been disbursed to the mortgagor, or to his creditors for his account and with his consent.

§ 576.17 *Maximum amount of mortgage and appraisal value of property.*

The mortgage must involve a principal obligation in an amount not in excess of ninety per centum (90%) of the appraised value as of the date the mortgage is accepted for insurance of a property, urban, suburban, or rural upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, which is approved for insurance under Title II or Title VI of the National Housing Act prior to the beginning of construction, and (1) the construction of which is begun after March 28, 1941, or (2) the construction of which was begun after January 1, 1940 and prior to March 28, 1941, and which at the time the mortgage is accepted for war housing insurance has not been sold or occupied since completion.

Such principal obligation should be in an amount of one hundred dollars ($100) or multiples thereof and must not exceed—

(a) $5,400 if such dwelling is designed for a single-family residence, or

(b) $7,500 if such dwelling is designed for a two-family residence, or

(c) $9,500 if such dwelling is designed for a three-family residence, or

(d) $12,000 if such dwelling is designed for a four-family residence.

§ 576.18 *Payments and maturity dates.* The mortgage should come due on the first of a month and must have a maturity satisfactory to the Commissioner, not to be less than 5 nor more than 25 years from the date of insurance. The amortization period should be either 5, 8, 10, 12, 15, 17, 20 or 25 years by providing for either 60, 96, 120, 144, 180, 204, 240 or 300 monthly amortization payments.

§ 576.19 *Rate of interest.* The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such interest rate be in excess of 4½ percent per annum. Interest shall be payable in monthly installments on the principal then outstanding.

§ 576.20 *Amortization provisions.* The mortgage must contain complete amortization provisions satisfactory to the Commissioner, requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Commissioner. The sum of the principal and interest payments in each month shall be substantially the same.

§ 576.21 *Payment of insurance premiums.* The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth of the annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage should provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in § 577.3 (b), but shall not provide for the payment of any further charge on account of such prepayment.

§ 576.22 *Mortgagor's payments to include other charges.* The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if any, and the estimated amount of all taxes, special assessments, if any, and fire and other hazard insurance premiums within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

§ 576.23 *Mortgagee's application of payments.* All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided, in §§ 576.19–576.22, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(a) premium charges under the contract of insurance;

(b) ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(c) interest on the mortgage; and

(d) amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to, or on, the due date of the next such payment, constitute an event of default under the mortgage.

§ 576.24 *Late charge.* The mortgage may provide for a charge by the mortgagee of a "late charge", not to exceed 2 cents for each dollar of each payment more than 15 days in arrears, to cover the extra expense involved in handling delinquent payments.

§ 576.25 *Mortgagor's payments when mortgage is executed.* The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

§ 576.26 *Service charge.* The mortgagee may charge the mortgagor the amount of the appraisal fee provided for in § 576.14 and an initial service charge to reimburse itself for the cost of closing the transaction. Such service charge shall not exceed 1 percent of the original principal amount of the mortgage or a charge of $20, whichever is the greater, except that in cases of property under construction or to be constructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction, such initial service charge may be in an amount not in excess of 2½ percent of the original principal amount of the mortgage or a charge of $50, whichever is the greater.

§ 576.27 *Approval of other charges.* In addition to the charges hereinbefore mentioned, the mortgagee may collect from the mortgagor only recording fees and such appraisal fees and cost of the title search as are approved by the Commissioner. Nothing in this section and § 576.26 shall be construed as prohibiting the mortgagor from dealing through a broker, who does not represent the mortgagee, if he prefers to do so, and paying the broker such compensation as is satisfactory to the mortgagor.

§ 576.28 *Project must be acceptable risk in view of national emergency.* The mortgage must be executed with respect to a project which, in the opinion of the Commissioner, is an acceptable risk in view of the national emergency.

Eligible Mortgagors

§ 576.29 *Mortgage must be only lien upon property.* A mortgagor must establish that after the mortgage offered for insurance has been recorded, the mortgaged property will be free and clear of all liens other than such mortgage and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

§ 576.30 *Relationship of income to mortgage payments.* A mortgagor must establish that the periodic payments required in the mortgage submitted for insurance bear a proper relation to his present and anticipated income and expenses.

§ 576.31 *Credit standing of mortgagor.* A mortgagor must have a general credit standing satisfactory to the Commissioner.

§ 576.32 *Residence of mortgagor.* A mortgagor is not restricted as to place of residence and need not be the occupant of the property covered by the mortgage.

§ 576.33 *Occupancy priority to war workers.* The mortgagor must establish, in a manner satisfactory to the Commissioner, that after completion of the dwelling or dwellings, occupancy priority will be given to persons engaged in war activities.

Eligible Properties

§ 576.34 *Nature of title to the realty.* A mortgage to be eligible for insurance must be on real estate held in fee simple, or on leasehold under a lease for not

less than 99 years which is renewable, or under a lease with a period of not less than 50 years to run from the date the mortgage is executed.

§ 576.35 *Dwelling unit located on property.* At the time a mortgage is insured there must be located on the mortgaged property a dwelling unit designed principally for residential use for not more than four families. Such unit may be connected with other dwellings by a party wall or otherwise.

§ 576.36 *Standards for buildings.* The buildings on the mortgaged property must conform with the standards prescribed by the Commissioner.

§ 576.37 *Location of property.* The mortgaged property must be located in an area in which the President shall find that an acute shortage of housing exists or impends which would impede national war activities.

§ 576.38 *Effective date.* The administrative rules in this part are effective as to all mortgages on which a commitment to insure under section 603 is issued to an approved mortgagee on or after May 26, 1942.

PART 577—REGULATIONS FOR WAR HOUSING INSURANCE

Sec.

AUTHORITY: §§ 577.1 to 577.13, inclusive, issued under Pub. Law 59, 77th Cong., as amended by Pub. Law 559, 77th Cong.

NOTE: The word "defense" appearing in Subchapter H—Part 577 has been changed in this revision to the word "war" to conform with the amendments to Title VI of the National Housing Act, approved May 26, 1942.

§ 577.1 *Citation.* The regulations in this part may be cited and referred to as "Part 577—Regulations of the Federal Housing Commissioner for war housing insurance under section 603 of the National Housing Act, as amended, effective March 31, 1941, revised May 26, 1942."

§ 577.2 *Definitions.* As used in the regulations in this part:

(a) The term "Commissioner" means the Federal Housing Commissioner.

(b) The term "Act" means the National Housing Act.

(c) The term "mortgage" means such a first lien upon real estate as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the real estate is situated, together with the credit instruments, if any, secured thereby.

(d) The term "insured mortgage" means a mortgage which has been insured by the endorsement of the Commissioner.

(e) The term "mortgagor" means the original borrower under a mortgage and his heirs, executors, administrators, and assigns.

(f) The term "mortgagee" means the original lender under a mortgage and its successors and such of its assigns as are approved by the Commissioner.

(g) The term "contract of insurance" means the endorsement of the Commissioner upon the credit instrument given in connection with an insured mortgage, incorporating by reference these regulations.

§ 577.3 *Premiums.* (a) The mortgagee shall pay to the Commissioner an annual mortgage insurance premium equal to one-half of 1 percent of the average outstanding principal obligation for the 12-month period following the date on which such premium becomes payable, and calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

The first such premium is to be paid on the date on which such insurance becomes effective by endorsement and shall be calculated on the average outstanding principal balance for the year beginning with a day 30 days prior to the date of the first monthly payment. Until the mortgage is paid in full or the mortgaged property is acquired by the Commissioner as hereinafter set forth, or until the contract of insurance is otherwise terminated as hereinafter provided, the next and each succeeding premium shall be paid annually thereafter on the anniversary of such day, and the amount of the second premium payment will be adjusted accordingly. Such premiums shall be paid either in cash or debentures issued under Title VI of the National Housing Act at par plus accrued interest.

The provisions of this section shall also apply to mortgages insured prior to the date of the regulations, in this part but only in respect to premiums payable after the effective date of the regulations in this part.

(b) In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within 30 days thereafter notify the Commissioner of the date of prepayment and shall pay to the Commissioner an adjusted premium charge of 1 percent of the original principal amount of the prepaid mortgage, except that if at the time of such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original amount of the prepaid mortgage, such adjusted premium shall be 1 percent of the difference in such amounts.

In no event shall the adjusted premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity.

No adjusted premium shall be due or payable in the following cases:

(1) Where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original principal amount of the prepaid mortgage; or

(2) Where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year 15 percent of the original face amount of the mortgage; or

(3) Where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (i) damage to the mortgaged property, or (ii) a release of a part of such property if approved by the Commissioner; or

(4) Where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Commissioner;

(5) Where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments which in any one calendar year exceed fifteen percentum (15%) of the original face amount of the mortgage, if made by the mortgagor during the period of the national emergency declared by the President to exist on May 27, 1941; or where the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity by the mortgagor during the period of such national emergency, provided the mortgagee submits to the Commissioner a certificate signed by the mortgagor certifying that the mortgage has been paid in full without refinancing or otherwise creating any obligation or debt for which the mortgagor or property owned by the mortgagor is liable.

Upon such prepayment the contract of insurance shall terminate.

(c) If at the time of prepayment a new insured mortgage is placed on the same property, the Commissioner will refund to the mortgagee for the account of the mortgagor an amount equal to the pro rata portion of the current annual mortgage insurance premium theretofore paid, which is applicable to the portion of the year subsequent to such prepayment.

§ 577.4 *Insurance endorsement.* Upon compliance, satisfactory to the Commissioner, with the terms of his commitment to insure, the Commissioner will endorse the original credit instrument in form as follows:

No.____
Insured under section 603 of
The National Housing Act
And regulations of the
Federal Housing Commissioner
For War Housing Insurance
Dated March 31, 1941
as amended_____
FEDERAL HOUSING COMMISSIONER
By_____
Authorized Agent
Date_____

The mortgage shall be an insured mortgage from the date of such endorsement. The Commissioner and the mortgagee shall thereafter be bound by the regulations in this part with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of the regulations in this part and of the National Housing Act.

§ 577.5 *Rights of parties on termination of insurance.* In the event the mortgagee forecloses on the mortgaged property, but does not convey it to the Commissioner in accordance with § 577.8 and the Commissioner is given written notice thereof, or in the event the mortgagor pays the obligation under the mortgage in full, prior to the maturity thereof, and the mortgagee pays any adjusted premium required under § 577.3 (b), and the Commissioner is given written notice by the mortgagee of such payment by the mortgagor, the obligation to pay any subsequent premium charge for insurance shall cease and all rights of the mortgagee and mortgagor, under § 577.8, shall terminate as of the date of such notice.

§ 577.6 *Time of default.* If the mortgagor fails to make any payment, or to perform any other covenant or obligation under the mortgage, and such failure continues for a period of 30 days, the mortgage shall be considered in default, and the mortgagee shall, within 60 days thereafter, give notice in writing to the Commissioner of such default, and similar notices each sixty (60) days until such default is cured.

§ 577.7 *Transfer of property to the Commissioner; conditions of default in mortgage.* At any time within 1 year from the date of default the mortgagee, at its election, shall either:

(a) With, and subject to, the consent of the Commissioner, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(b) Commence foreclosure of the mortgage: *Provided,* That if the laws of the State in which the mortgaged property is situated do not permit the commencement of such foreclosure within such period of time, the mortgagee shall commence such foreclosure within 60 days after the expiration of the time during which such foreclosure is prohibited by such laws:

The mortgagee shall promptly give notice in writing to the Commissioner of the institution of foreclosure proceedings and shall exercise reasonable diligence in prosecuting such proceedings to completion.

For the purposes of this section, the date of default shall be considered as 30 days after (1) the first uncorrected failure to perform a covenant or obligation, or (2) the first failure to make a monthly payment which subsequent payments by the mortgagor are insufficient to cover when applied to the overdue monthly payments in the order in which they become due.

If after default and prior to the completion of foreclosure proceedings, the mortgagor shall pay to the mortgagee all monthly payments in default and such expenses as the mortgagee shall have incurred in connection with the foreclosure proceedings, notice shall be given to the Commissioner, and the insurance shall continue as if such default had not occurred.

Nothing contained in this section shall be construed so as to prevent the mortgagee, with the written consent of the Commissioner, from taking action at a later date than herein specified.

If at any time during default the mortgagor is a "person in military service", as such term is defined in the Soldiers' and Sailors' Civil Relief Act of 1940, the period during which he is in such service shall be excluded in computing the one year period within which the mortgagee shall commence foreclosure or acquire the property by other means as provided in this section and no postponement or delay in the prosecution of foreclosure proceedings during the period the mortgagor is in such military service shall be construed as failure on the part of the mortgagee to exercise reasonable diligence in prosecuting such proceedings to completion as required by this section. If the mortgagor is a person in military service as defined in such Act, the mortgagee may, by written agreement with the mortgagor, postpone for the period of military service, and three months thereafter, that part of the monthly payment, or any part thereof which represents amortization of principal, provided such agreement contains a provision for the resumption of monthly payments thereafter in amounts which will completely amortize the mortgage debt within its original maturity. Such agreement, however, will in no way affect the amount of the annual mortgage insurance premium which will continue to be calculated in accordance with the original amortization provisions.

§ 577.8 *Condition of property when transferred; delivery of debentures; certificate of claim and definition of the term "waste".* If the default is not cured as aforesaid, and if the mortgagee has otherwise complied with the provisions of § 577.7, and at any time within 30 days (or such further time as may be necessary to complete the title examination and perfect such title) after acquiring possession of the mortgaged property by foreclosure, or by other means in accordance with paragraph (a) of § 577.7, tenders to the Commissioner possession of, and a deed containing a covenant which warrants against the acts of the mortgagee and all claiming by, through, or under it, conveying good merchantable title (evidenced as hereinafter provided in § 577.9) to, such property undamaged by fire, earthquake, flood, or tornado, and undamaged by waste, except as hereinafter in this section provided, and assigns (without recourse or warranty) any and all claims which it has acquired in connection with the mortgage transaction, and as a result of the foreclosure proceedings or other means by which it acquired such property, except such claims as may have been released with the approval of the Commissioner, the Commissioner shall promptly accept conveyance of such property and such assignment and shall deliver to the mortgagee:

(a) Debentures of the War Housing Insurance Fund as set forth in section 604 of the Act, issued as of the date foreclosure proceedings were instituted or the property was otherwise acquired by the mortgagee after default, bearing interest at the rate of two and one-half per centum (2½%) per annum payable semi-annually on the first day of January and the first day of July of each year, and having a total face value equal to the value of the mortgage as defined in section 604 (a) of the Act. Such value shall be determined by adding to original principal of the mortgage, which was unpaid on the date of the institution of foreclosure proceedings or the acquisition of the property otherwise after default, the amount of all payments, which have been made by the mortgagee for taxes, ground rent and water rates, which are liens prior to the mortgage, special assessments, which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance on the property mortgaged and any mortgage insurance premium paid after the institution of foreclosure proceedings or the acquisition of the property otherwise after default, and by deducting from such total any amount received on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property otherwise after default and from any source relating to the property on account of rent or other income after deducting reasonable expenses incurred in handling the property: *Provided, however,* That with respect to mortgages on which the unpaid principal obligation at the time of the institution of foreclosure proceedings exceeds 80 percent of the appraised value of the property as of the date the mortgage was accepted for insurance, there will be included in the debentures issued by the Commissioner, on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Commissioner an amount—

(1) Not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings and not in excess of $75; or

(2) Not in excess of two-thirds of such cost, whichever is the greater.

Such debentures shall be registered as to principal and interest and all or any such debentures may be redeemed, at the option of the Commissioner with the approval of the Secretary of the Treasury, at par and accrued interest on any interest payment day on 3 months' notice of redemption given in such manner as the Commissioner shall prescribe.

(b) A certificate of claim in accordance with section 604 (e) of the Act, which shall become payable, if at all, upon the sale and final liquidation of the interest of the Commissioner in such

property in accordance with section 604 (f) of the Act. This certificate shall be for an amount which the Commissioner shall determine to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures and shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise and the conveyance thereof to the Commissioner, including reasonable attorney's fees, unpaid interest and cost of repairs to the property made by the mortgagee after default to remedy the waste mentioned in this section. Each such certificate of claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of 3 percent per annum.

The term "waste" as used in this section means permanent or substantial injury caused by unreasonable use, or abuse, and is not intended to include damage caused by ordinary wear and tear.

The provisions of this section concerning waste, shall not apply to mortgages on which the unpaid principal obligation at the time of the institution of foreclosure proceedings exceeds 75 percent of the appraised value of the property as of the date the mortgage was accepted for insurance, and in any event the obligation of the mortgagee to repair waste in accordance with such provision shall be limited to the amount of $100 for each family dwelling unit covered by the mortgage.

§ 577.9 *Satisfactory title evidence.* Evidence of title of the following types will be satisfactory to the Commissioner:

(a) A fee or owner's policy of title insurance, a guaranty or guarantee of title, or a certificate of title, issued by a title company, duly authorized by law and qualified by experience to issue such; or

(b) An abstract of title prepared by an abstract company or individual engaged in the business of preparing abstracts of title and accompanied by the legal opinion as to the quality of such title signed by an attorney at law experienced in examinations of titles; or

(c) A Torrens or similar title certificate; or

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States or of any State or Territory thereof.

Such evidence of title shall be furnished without cost to the Commissioner and shall be executed as of a date to include the recordation of the deed to the Commissioner, and shall show that, according to the public records, there are not, at such date, any outstanding prior liens, including any past due and unpaid ground rents, general taxes, or special assessments.

If the title and title evidence are such as to be acceptable to prudent lending institutions and leading attorneys generally in the community in which the property is situated, such title and title evidence will be satisfactory to the Commissioner and will be considered by him as good and merchantable.

The Commissioner will not object to the title by reason of the following matters, provided they are not such as to impair the value of the property for residence purposes, or provided they have been brought to the attention of the insuring office for consideration in fixing the valuation:

(1) customary easements for public utilties, party walls, driveways, and other purposes; customary building or use restrictions for breach of which there is no reversion and which have not been violated to a material extent;

(2) Such restrictions when coupled with a reversionary clause, provided there has been no violation prior to the date of the deed to the Commissioner;

(3) Slight encroachments by adjoining improvements;

(4) Oustanding oil, water, or mineral rights which, in the opinion of the Commissioner, do not impair the value of the property for residence purposes, or which are customarily waived by prudent lending institutions and leading attorneys generally in the community.

§ 577.10 *Assignment of mortgages.* When the insured mortgage is transferred to another approved mortgagee, such transferor and transferee shall both notify the Commissioner of such transfer within 30 days thereof, and the transferee shall thereupon succeed to all the rights and become bound by all the obligations of the transferor under the contract of insurance; and the transferor shall thereupon be released from its obligations under the contract of insurance.

Whenever ths insured mortgage is transferred to another approved mortgagee for the purposes of collateral only, no notice need be given to the Commissioner until such collateral is foreclosed, but the transferor shall remain subject to all the obligations of the contract of insurance.

§ 577.11 *Termination of contract of insurance.* The contract of insurance shall terminate upon the happening of either of the following events:

(a) the acquisition of the insured mortgage by, or the pledge thereof to, any person, firm, or corporation, public or private, other than an approved mortgagee, whether individually or in trust for another; *Provided,* That this paragraph (a) shall not be applicable to a mortgage acquired or held by an approved mortgagee, which is a banking institution or trust company inspected and supervised by some governmental agency, for a trust held or administered by it in a fiduciary capacity, as long as such fiduciary relationship shall remain in effect;

(b) the disposal by an approved mortgagee of any partial interest in an insured mortgage or group of insured mortgages (whether to another approved mortgagee or otherwise) by means of a declaration of trust, or by a participation or trust certificate, or by any other device: *Provided,* That this paragraph (b) shall not be applicable to any mortgage so long as it is held in a common trust fund maintained by a bank or trust company (1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, executor or administrator; and (2) in conformity with the rules and regulations prevailing from time to time of the Board of Governors of the Federal Reserve System, pertaining to the collective investment of trust funds: *Provided, further.* That this paragraph (b) shall not be applicable to any mortgage so long as it is held in a common trust estate administered by a bank or trust company which is subject to the inspection and supervision of a governmental agency, exclusively for the benefit of other banking institutions which are subject to the inspection and supervision of a governmental agency, and which are authorized by law to acquire beneficial interests in such common trust estate.

§ 577.12 *Amendments.* The regulations in this part may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not affect the contract of insurance on any mortgage already insured, or any mortgage or prospective mortgage on which the Commissioner has made a commitment to insure.

§ 577.13 *Effective date.* The regulations in this part are effective as to all mortgages on which a commitment to insure under section 603 is issued to an approved mortgagee on or after May 26, 1942. Whenever a mortgagee so desires, the provisions of these regulations shall become a part of any contract of insurance heretofore made.

Issued at Washington, D. C., May 26, 1942.

[SEAL] ABNER H. FERGUSON,
Federal Housing Commissioner.

[F. R. Doc. 42-5227; Filed, June 4, 1942; 9:31 a. m.]

PART 580—WAR RENTAL HOUSING INSURANCE FOR MORTGAGES NOT EXCEEDING $200,000.00

APPROVAL OF MORTGAGEES

APPLICATION AND COMMITMENT

ELIGIBLE MORTGAGES

AUTHORITY: §§ 580.1 to 580.37, inclusive, issued under Pub. Law 24, 77th Cong., as amended by Pub. Law 559, 77th Cong.

Approval of Mortgages

§ 580.1 *Classification of mortgagees.* The following may become the mortgagee of a mortgage insured under section 608 of the National Housing Act:

(a) Any institution or organization which is approved as a mortgagee under section 203 (b) or 603 (b) of the National Housing Act; and

(b) Any other chartered institution or permanent organization having succession, upon its approval by the Commissioner for a particular transaction.

§ 580.2 *Property inspection by mortgagee.* As a condition precedent to insurance, the mortgagee must agree that it will ascertain the general physical condition of the mortgaged property at intervals not greater than one (1) year, and that, if at any time it be determined by the mortgagee that, in addition to ordinary wear and tear, the mortgaged property is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the mortgagee will, unless adequate provision satisfactory to a prudent lender is made for the prompt restoration of the mortgaged property, forthwith take such action as may be available to it under the mortgage and appropriate to the particular case, for the protection and preservation of the mortgaged property and the income therefrom, and the submission of an application for insurance shall be evidence of such agreement.

§ 580.3 *Non-approval.* The Commissioner reserves the right to refuse to approve any institution or organization as the mortgagee of a particular mortgage or to withhold any such approval pending compliance by such institution or organization, with additional conditions which in the discretion of the Commissioner are required in the particular case.

§ 580.4 *Withdrawal of approval.* Approval of a mortgagee may be withdrawn by notice from the Commissioner upon violation of the agreement mentioned in § 580.2, and such approval may also be withdrawn at any time for other cause sufficient to the Commissioner, but no withdrawal will in any way affect the insurance on mortgages theretofore accepted for insurance.

Application and Commitment

§ 580.5 *Submission of application.* Any approved mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed.

§ 580.6 *Form of application.* The application must be made upon a standard form prescribed by the Commissioner and filed at the local Federal Housing Administration office serving the area in which the property is located.

§ 580.7 *Application fee.* The application must be accompanied by the mortgagee's check to cover an application fee computed at the rate of three dollars ($3.00) per thousand dollars ($1,000.00) of the original face amount of the mortgage loan for which application is made, to cover the costs of analysis and commitment by the Commissioner. If the application is refused without an estimate of replacement costs being made by the Commissioner, the fee paid will be returned to the applicant. If an application is rejected after such estimate has been made, all of such fee paid in excess of that calculated at one dollar and fifty cents ($1.50) per thousand dollars will be returned to the applicant. If, after insurance, the amount of an insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, a further fee shall be paid based upon the amount of such increase.

§ 580.8 *Approval of application.* Upon approval of an application, acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth, upon a form prescribed by the Commissioner, the terms and conditions under which mortgage insurance will be granted, but no commitment will be valid unless executed by the Commissioner or by his agent duly authorized for such purpose.

Eligible Mortgages

§ 580.9 *Mortgage must be on approved form.* To be eligible for insurance—The mortgage must be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated by a mortgagor with the qualifications hereinafter set forth in §§ 580.22, 580.23, and 580.24, must be a first lien upon property that conforms with the property standards prescribed by the Commissioner, and the mortgagee must be obligated, as a part of the mortgage transaction, to disburse the entire principal amount of the mortgage to, or for the account of, the mortgagor.

§ 580.10 *Amount of principal obligation.* The mortgage must secure a principal obligation in multiples of one hundred dollars ($100.00) and in excess of twelve thousand dollars ($12,000.00) but not in excess of two hundred thousand dollars ($200,000.00) and not in excess of ninety per centum (90%) of the amount which the Commissioner estimates will be the reasonable replacement cost of the completed property or project, including the land; the proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incidental to construction and approved by the Commissioner: *Provided,* That such mortgage shall not in any event exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project, exclusive of offsite public utilities and streets, and organization and legal expenses. Such part of the mortgage as may be attributable to dwelling use shall not exceed $1,350 per room.

§ 580.11 *Maturity.* The mortgage must have a maturity satisfactory to the Commissioner and should come due upon the first day of a month.

§ 580.12 *Interest rate.* The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such interest rate be in excess of four per centum (4%) per annum. Interest shall be payable only on principal outstanding and shall be payable in monthly installments.

§ 580.13 *Amortization provisions.* The mortgage must contain complete amortization provisions satisfactory to the Commissioner requiring equal monthly payments consisting of principal and interest. Payments on account of principal must begin not later than the first day of the twelfth month following the execution of the mortgage.

§ 580.14 *Payment requirements.* The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth (1/12) of the annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage shall provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in Section 582.4 of this chapter.

§ 580.15 *Covenants for fire insurance.* The mortgage shall contain a covenant binding the mortgagor to keep the property insured by a standard policy or policies against fire and such other hazards as the Commissioner, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the co-insurance clause applicable to the location and character of the property, but not less than eighty per cent (80%) of the actual cash value of the insurable improvements and equipment of the project. The initial coverage shall be in

an amount estimated by the Commissioner at the time of completion of the entire project or units thereof. The policies evidencing such insurance shall have attached thereto a standard mortgagee clause making loss payable to the mortgagee and the Commissioner, as interest may appear.

§ 580.16 *Additional payment requirements.* (a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if any, and the estimated amount of all taxes, water rates and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held in trust for the benefit and account of the mortgagor by the mortgagee, for the purpose of paying such ground rents, taxes, water rates and assessments, and insurance premiums, before the same become delinquent. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

(b) All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided, §§ 580.12 to 580.16 (a) inclusive, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(1) Premium charges under the contract of insurance;

(2) Ground rents, taxes, water rates, special assessments, and fire and other hazard insurance premiums;

(3) Interest on the mortgage; and

(4) Amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payments shall, unless made good by the mortgagor prior to or on the due date of the next such payment, constitute an event of default under the mortgage.

§ 580.17 *Initial service charge.* The mortgagee may charge the mortgagor the amount of the application fee provided in § 580.7 of the regulations in this part and an initial service charge to reimburse itself for the cost of closing the transaction. Such initial service charge may be in an amount not in excess of one and one-half per centum (1½%) of the original principal amount of the mortgage.

§ 580.18 *Recording fees, mortgage and stamp taxes, etc.* In addition to the charges hereinbefore mentioned, the mortgagee may collect from the mortgagor only recording fees, mortgage and stamp taxes, if any, and such costs of survey and title search as are approved by the Commissioner.

§ 580.19 *Rights and remedies of mortgagee in event of default or foreclosure.* The mortgage must contain a provision or provisions, satisfactory to the Commissioner, giving to the mortgagee, in event of default or foreclosure of the mortgage, such rights and remedies for the protection and preservation of the property covered by the mortgage and the income therefrom, as are available under the law or custom of the jurisdiction.

§ 580.20 *Additional terms and conditions.* The mortgage may contain such other terms, conditions and provisions with respect to advances during construction, assurance of completion, release of parts of the mortgaged property from the lien of the mortgage, insurance, repairs, alterations, payment of taxes, default and management reserves, foreclosure proceedings, anticipation of maturity, and other matters as the Commissioner may in his discretion prescribe or approve.

§ 580.21 *Soundness of risk of project.* The mortgage must be executed with respect to a project which, in the opinion of the Commissioner, is an acceptable risk in view of the national emergency.

Eligible Mortgagors

§ 580.22 *Property free of liens and obligations.* A mortgagor must establish that after final disbursement of the loan the property covered by the mortgage is free and clear of all liens other than such mortgage, and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

§ 580.23 *Occupancy priority to war workers.* The mortgagor must establish, in a manner satisfactory to the Commissioner, that after completion of the project occupancy priority will be given to persons engaged in war activities.

§ 580.24 *Satisfactory credit standing.* A mortgagor must have a general credit standing satisfactory to the Commissioner.

Supervision of Mortgagors

§ 580.25 *Working capital requirements.* The mortgagor shall deposit with the mortgagee an amount equivalent to not less than three per cent (3%) of the original principal amount of the mortgage, in trust for the purpose of meeting the cost of equipping and renting the project subsequent to completion of construction of the entire project or units thereof, and to pay taxes and insurance premium for the twelve months' period following the completion of construction. Any balance of said fund not used or set aside for the above purposes shall be paid to the mortgagor upon completion of the entire project to the satisfaction of the Commissioner.

§ 580.26 *Assurance of completion requirements.* (a) The mortgagor must establish in a manner satisfactory to the Commissioner that, in addition to the proceeds of the insured mortgage, the mortgagor has funds sufficient to assure completion of construction of the project. The Commissioner may require such funds, if any, to be deposited with and held by the mortgagee in a special account or with an acceptable trustee or escrow agent under an appropriate agreement approved by the Commissioner which will require such funds to be expended for work and material on the physical improvements prior to the advance of any mortgage money.

(b) The Commissioner may require the deposit with the mortgagee or with an acceptable trustee or escrow agent under an appropriate agreement of such cash as may be required for the completion of offsite utilities and streets.

§ 580.27 *Inspection of property and records by Commissioner.* The mortgagor shall permit the Commissioner or his duly authorized employees or agents to inspect the mortgaged property and the books and records of the mortgagor relating to the mortgaged property at all reasonable times.

§ 580.28 *Form of assurance of completion.* Assurance for the completion of a project may be either (a) the bond of a satisfactory surety company in the standard A. I. A. (or equivalent) form of construction bond in an amount at least equal to ten per cent (10%) of the construction cost, or (b) an escrow deposit in an approved depositary of cash or securities of, or fully guaranteed as to principal and interest by, the United States of America, in an amount at least equal to ten per cent (10%) of the construction cost, conditioned on completion of the project to the satisfaction of the Commissioner. This section shall not apply to any mortgage transaction where it is agreed between all parties thereto that no insurance of the mortgage or any part thereof is to be requested until after final completion of the project to the satisfaction of the Commissioner. In such cases, the Commissioner shall have the right of continual or periodic inspection of the construction of the improvements, including the right of approval or disapproval thereof.

Eligible Properties

§ 580.29 *Eligibility of property.* A mortgage to be eligible for insurance must be on real estate held in fee simple, or on the interest of the lessee under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having a period of not less than fifty (50) years to run from the date the mortgage is executed.

§ 580.30 *Development of property.* At the time the mortgage is insured the mortgagor shall have constructed and completed or shall be obligated to construct and complete new housing accommodations on the mortgaged property designed principally for residential use, conforming to standards satisfactory to the Commissioner, and consisting of not less than eight (8) rentable dwelling units on one site and may be detached, semidetached, or row houses, or multifamily structures.

§ 580.31 *Requirements regarding location and use by war workers.* Such dwellings shall be designed for rent for

residential use by war workers and must be located in an area in which the President shall find that an acute shortage of housing exists or impends which would impede national war activities.

§ 580.32 *Compliance with zoning restrictions, etc.* Such dwellings and other improvements, if any, must not violate any zoning or deed restrictions applicable to the project site and must comply with all applicable building and other governmental regulations.

Title

§ 580.33 *Eligibility of title.* In order to be eligible for insurance, the Commissioner must determine that marketable title to the mortgaged property is vested in the mortagagor as of the date the mortgage was filed for record. The Commissioner will examine the title to property covered by a mortgage offered for insurance and in the event a determination of eligibility with respect to title is made as herein provided, such finding shall constitute a part of the contract of insurance evidenced by the insurance endorsement.

§ 580.34 *Title evidence.* Upon endorsement of the mortgage for insurance, the mortgagee, without expense to the Commissioner, shall furnish to the Commissioner a survey satisfactory to him and a policy of title insurance as provided in paragraph (a) of this section: *Provided, however,* That in the event the mortgagee is unable to furnish such policy for reasons satisfactory to the Commissioner, the mortgagee, without expense to the Commissioner, shall furnish evidence of title as provided in paragraphs (b), (c), or (d) of this section as the Commissioner may require.

(a) A policy of title insurance with respect to such mortgage issued by a company satisfactory to the Commissioner. Such policy shall comply with the "L.I.C. Standard Mortgagee Form," or the "A. T. A. Standard Mortgagee Form," or such other form as may be approved by the Commissioner and which offers substantially the same coverage under substantially the same conditions and stipulations. Such policies may contain such "permitted" and other exceptions, restrictions, and limitations as are approved by the Commissioner. The policy shall become effective as of the date the mortgage is filed for record and shall run to the mortgagee and the Commissioner, their successors and assigns, as their respective interests may appear.

(b) An abstract of title satisfactory to the Commissioner, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Commissioner, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(c) A Torrens or similar title certificate.

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

Insurance of Advances During Construction

§ 580.35 *Agreement as to manner and conditions governing advances.* (a) The Commissioner, the mortgagor and the mortgagee shall, prior to the insurance of the mortgage, agree with respect to the manner and conditions under which advances (if any) during construction are to be made by the mortgagee and approved for insurance by the Commissioner.

(b) Such agreement shall require the mortgagee to notify the Commissioner, through the insuring office having jurisdiction over the territory in which the property is situated, in writing, on an application form prescribed by the Commissioner, setting forth the proposed date and the amount of the advance to be made, and the Commissioner shall deliver to the mortgagee within a reasonable time from the date of such notice a certificate executed on behalf of the Commissioner on a form prescribed by him setting forth the amount approved for insurance or advising the mortgagee of the Commissioner's nonapproval and setting forth the reasons therefor.

(c) Such agreement shall be set forth on a form prescribed by the Commissioner, shall contain such additional terms, conditions and provisions as the Commissioner shall in the particular case prescribe or approve, and when properly executed by the Commissioner and the mortgagee, shall constitute a part of the mortgage insurance contract.

§ 580.36 *Prevailing wage requirement.* No advance under any mortgage shall be eligible for insurance unless there is filed with the application for such advance a certificate or certificates in the form required by the Commissioner, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor prior to the beginning of construction and after the date of the filing of the application for insurance.

§ 580.37 *Effective date.* These regulations in this part are effective as to all mortgages not in excess of two hundred thousand dollars ($200,000.00) on which a commitment to insure under section 608 is issued, on or after the date hereof.

Issued at Washington, D. C., May 26, 1942.

ABNER H. FERGUSON,
Federal Housing Commissioner.

[F. R. Doc. 42-5224; Filed, June 4, 1942; 10:12 a. m.]

PART 581—WAR RENTAL HOUSING INSURANCE FOR MORTGAGES EXCEEDING $200,000.00

APPROVAL OF MORTGAGES

APPLICATION AND COMMITMENT

ELIGIBLE MORTGAGES

ELIGIBLE MORTGAGORS

SUPERVISION OF MORTGAGORS

ELIGIBLE PROPERTIES

TITLE

INSURANCE OF ADVANCES DURING CONSTRUCTION

EFFECTIVE DATE

AUTHORITY: § 581.1 to 581.40, inclusive, issued under Pub. Law 24, 77th Cong., as amended by Pub. Law 559, 77th Cong.

Approval of Mortgagees

§ 581.1 *Classification of mortgagees.* The following may become the mortgagee of a mortgage insured under section 608 of the National Housing Act:

(a) Any institution or organization which is approved as a mortgagee under sections 203 (b) or 603 (b) of the National Housing Act; and

(b) Any other chartered institution or permanent organization having succession, upon its approval by the Commissioner for a particular transaction.

§ 581.2 *Property inspection by mortgagee.* As a condition precedent to insurance, the mortgagee must agree that it will ascertain the general physical condition of the mortgaged property at intervals not greater than one (1) year, and that, if at any time it be determined by the mortgagee that, in addition to ordinary wear and tear, the mortgaged property is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the mortgagee will, unless adequate provision satisfactory to a prudent lender is made for the prompt restoration of the mortgaged property, forthwith take such action as may be available to it under the mortgage and appropriate to the particular case, for the protection and preservation of the mortgaged property and the income therefrom, and the submission of an application for insurance shall be evidence of such agreement.

§ 581.3 *Non-approval.* The Commissioner reserves the right to refuse to approve any institution or organization as the mortgagee of a particular mortgage or to withhold any such approval pending compliance by such institution or organization, with additional conditions which in the discretion of the Commissioner are required in the particular case.

§ 581.4 *Withdrawal of approval.* Approval of a mortgagee may be withdrawn by notice from the Commissioner upon violation of the agreement mentioned in § 581.2, and such approval may also be withdrawn at any time for other cause sufficient to the Commissioner, but no withdrawal will in any way affect the insurance on mortgages theretofore accepted for insurance.

Application and Commitment

§ 581.5 *Submission of application.* Any approved mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed.

§ 581.6 *Form of application.* The application must be made upon a standard form prescribed by the Commissioner and filed at the local Federal Housing Administration office serving the area in which the property is located.

§ 581.7 *Application fee.* The application must be accompanied by the mortgagee's check to cover, (a) an "Application Fee" computed at the rate of one dollar and fifty cents ($1.50) per thousand dollars ($1,000.00) of the original face amount of the mortgage loan for which application is made, to cover the costs of analysis by the Commissioner, and (b) a sum (referred to as "Commitment Fee") which when added to the application fee will aggregate $3.00 per thousand of the face amount of the mortgage loan approved for insurance by the Commissioner, and which shall be paid at the time of delivery of the commitment. If the application is refused without an estimate of replacement costs being made by the Commissioner, the fee paid will be returned to the applicant. If, after insurance, the amount of an insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, a further fee shall be paid based upon the amount of such increase.

§ 581.8 *Approval of application.* Upon approval of an application, acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth, upon a form prescribed by the Commissioner, the terms and conditions under which mortgage insurance will be granted, but no commitment will be valid unless executed by the Commissioner or by his agent duly authorized for such purpose.

Eligible Mortgages

§ 581.9 *Mortgages must be on approved form.* To be eligible for insurance—the mortgage must be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated by a mortgagor with the qualifications hereinafter set forth in §§ 581.22 to 581.25 inclusive, must be a first lien upon property that conforms with the property standards prescribed by the Commissioner, and the mortgagee must be obligated, as a part of the mortgage transaction, to disburse the entire principal amount of the mortgage to, or for the account of, the mortgagor.

§ 581.10 *Amount of principal obligation.* The mortgage must secure a principal obligation in multiples of one hundred dollars ($100.00) and in excess of two hundred thousand dollars ($200,000.00) but not in excess of five million dollars ($5,000,000.00) and not in excess of ninety per centum (90%) of the amount which the Commissioner estimates will be the reasonable replacement cost of the completed property or project, including the land; the proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incidental to construction and approved by the Commissioner: *Provided,* That such mortgage shall not in any event exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project, exclusive of offsite public utilities and streets, and organization and legal expenses. Such part of the mortgage as may be attributable to dwelling use shall not exceed $1,350 per room.

§ 581.11 *Maturity.* The mortgage must have a maturity satisfactory to the Commissioner and should come due upon the first day of a month.

§ 581.12 *Interest rate.* The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such interest rate be in excess of four per centum (4%) per annum. Interest shall be payable only on principal outstanding and shall be payable in monthly installments.

§ 581.13 *Amortization provisions.* The mortgage must contain complete amortization provisions satisfactory to the Commissioner requiring equal monthly payments consisting of principal and interest. Payments on account of principal must begin not later than the first day of the eighteenth month following the execution of the mortgage, or at such earlier date, as may be determined by the Commissioner at time of commitment.

§ 581.14 *Payment requirements.* The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth (1/12) of the annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage shall provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in § 582.4 of the Regulations in this subchapter.

§ 581.15 *Covenant for fire and hazard insurance.* The mortgage shall contain a covenant binding the mortgagor to keep the property insured by a standard policy or policies against fire and such other hazards as the Commissioner, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the co-insurance clause applicable to the location and character of the property, but not less than eighty per cent (80%) of the actual cash value of the insurable improvements and equipment of the project. The initial coverage shall be in an amount estimated by the Commissioner at the time of completion of the entire project or units thereof. The policies evidencing such insurance shall have attached thereto a standard mortgage clause making loss payable to the mortgagee and the Commissioner, as interests may appear.

§ 581.16 *Additional payment requirements.* (a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if any, and the estimated amount of all taxes, water rates, and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held in trust for the benefit and account of the mortgagor by the mortgagee, for the purpose of paying such ground rents, taxes, water rates and assessments, and insurance premiums, before the same become delinquent. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

(b) All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided, in §§ 581.12 to 581.16 (a) inclusive, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(1) Premium charges under the contract of insurance;

(2) Ground rents, taxes, water rates, special assessments, and fire and other hazard insurance premiums;

(3) Interest on the mortage; and

(4) Amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to or on the due date of the next such payment, constitute an event of default under the mortgage.

§ 581.17 *Rights and remedies of mortgagee in event of default or foreclosure.* The mortgage must contain a provision or provisions, satisfactory to the Commissioner, giving to the mortgagee, in the event of default or foreclosure of the mortgage, such rights and remedies for the protection and preservation of the property covered by the mortgage and the income therefrom, as are available under the law or custom of the jurisdiction.

§ 581.18 *Initial service charge.* The mortgagee may charge the mortgagor the amount of the application fees provided in § 581.7 of these Rules and an initial service charge to reimburse itself for the cost of closing the transaction. Such initial service charge may be in an amount not in excess of one and one-half per centum (1½%) of the original principal amount of the mortgage.

§ 581.19 *Recording fees, etc.* In addition to the charges hereinbefore mentioned, the mortgagee may collect from the mortgagor only recording fees, mortgage and stamp taxes, if any, and such costs of survey and title search as are approved by the Commissioner.

§ 581.20 *Additional terms and conditions.* The mortgage may contain such other terms, conditions and provisions with respect to advances during construction, assurance of completion, release of parts of the mortgaged property from the lien of the mortgage, insurance, repairs, alterations, payment of taxes, default and management reserves, foreclosure proceedings, anticipation of maturity, and other matters as the Commissioner may in his discretion prescribe or approve.

§ 581.21 *Soundness of project risk.* The mortgage must be executed with respect to a project which, in the opinion of the Commissioner, is an acceptable risk in view of the national emergency.

Eligible Mortgagors

§ 581.22 *Property free of liens and obligations.* A mortgagor must establish that after final disbursement of the loan, the property covered by the mortgage is free and clear of all liens other than such mortgage, and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

§ 581.23 *Occupancy priority to war workers.* The mortgagor must establish, in a manner satisfactory to the Commissioner, that after completion of the project occupancy priority will be given to persons engaged in war activities.

§ 581.24 *Satisfactory credit standing.* A mortgagor must have a general credit standing satisfactory to the Commissioner.

§ 581.25 *Requirements regarding form of mortgagor.* In addition to meeting the requirements set forth above in §§ 581.22 to 581.25 inclusive, the mortgagor must be—

(a) A corporation or trust formed or created, with the approval of the Commissioner, for the purpose of providing housing for rent or sale, and possessing powers necessary therefor and incidental thereto, which corporation, or trust, until the termination of all obligations of the Commissioner under such insurance, is regulated or restricted by the Commissioner as to rents or sales, charges, capital structures, and methods of operation to such an extent as may be deemed advisable by the Commissioner. Such regulation or restriction shall remain in effect until such time as the mortgage insurance contract terminates without obligation upon the Commissioner to issue debentures as a result of such termination. So long as such contract of insurance is in effect, the corporation or trust shall engage in no business other than the construction and operation of a War Housing project or projects; or

(b) A Federal or State instrumentality, a municipal corporate instrumentality of one or more States, or a limited dividend corporation formed under and restricted by Federal or State housing laws as to rents, charges, and methods of operation.

Supervision of Mortgagors

§ 581.26 *Working capital requirements.* The mortgagor shall deposit with the mortgagee an amount equivalent to not less than three per cent (3%) of the original principal amount of the mortgage, in trust for the purpose of meeting the cost of equipping and renting the project subsquent to completion of construction of the entire project or units thereof, and to pay taxes and insurance premium for the twelve months' period following the completion of construction. Any balance of said fund not used or set aside for the above purposes shall be paid to the mortgagor upon completion of the entire project to the satisfaction of the Commissioner.

§ 581.27 *Assurance of completion requirements.* (a) The mortgagor must establish in a manner satisfactory to the Commissioner that, in addition to the proceeds of the insured mortgage, the mortgagor has funds sufficient to assure completion of construction of the project. The Commissioner may require such funds, if any, to be deposited with and held by the mortgagee in a special account or with an acceptable trustee or escrow agent under an appropriate agreement approved by the Commissioner which will require such funds to be expended for work and material on the physical improvements prior to the advance of any mortgage money.

(b) The Commissioner may require the deposit with the mortgagee or with an acceptable trustee or escrow agent under an appropriate agreement of such cash as may be required for the completion of offsite public utilities and streets.

§ 581.28 *Regulation of mortgagor by Commissioner, in general.* The mortgagor shall be regulated through the ownership by the Commissioner of certain shares of special stock (or other evidence of beneficial interest in the mortgagor) which stock or interest will acquire majority voting rights in the event of default under the mortgage or violation of provisions of the charter of the mortgagor or the violation of any valid agreement entered into between the mortgagor, the mortgagee and/or the Commissioner, but only for a period coextensive with the duration of such default or violation. The shares of stock or of beneficial interest issued to the Commissioner, his nominee or nominees and/or the Federal Housing Administration shall be in sufficient amount to constitute under the laws of the particular State a valid special class of stock or interest and shall be issued in consideration of the payment by the Commissioner of not exceeding in the aggregate $100. Such stock shall be represented by certificates issued in the name of the Commissioner, and/or in the name of his nominee or nominees, and/or in the name of the Federal Housing Administration, as the Commissioner shall require. Upon the termination of all obligations of the Commissioner under his contract of mortgage insurance or any succeeding contract or agreement covering the mortgage obligation, including the obligation upon the Commissioner to issue debentures as a result of such termination, all regulation and restriction of the mortgagor shall cease. When the right of the Commissioner to regulate or restrict the mortgagor shall so terminate, the shares of special stock or other evidence of beneficial interest shall be surrendered by the Commissioner upon reimbursement of his payments therefor plus accrued dividends, if any, thereon. Such regulation and the additional regulation or restriction hereinafter provided in this section and in §§ 581.29 to 581.31 inclusive shall be made effective by incorporation or appropriate provisions therefor in the charter or other instrument under which the mortgagor is created, or by agreement.

§ 581.29 *Required supervision of mortgagor.* The following are the items which will be regulated or restricted in the manner and to the extent hereinbefore indicated:

(a) No charge shall be made by the mortgagor for the accommodations offered by the project in excess of a rental schedule to be filed with the Commissioner and approved by him or his duly constituted representative prior to the opening of the project for rental, which schedule shall be based upon a maximum average rental fixed prior to the insurance of the mortgage, and shall not thereafter be changed except upon application of the mortgagor to, and the

written approval of the change by, the Commissioner.

(b) The established maximum rental shall be the maximum authorized charge against any tenant for the accommodations offered and shall include all services except telephone, gas, electric, and refrigeration facilities. Charges permitted in addition to such maximum rental shall be subject to the approval of the Commissioner.

(c) The regulation and restriction provided for in the above paragraphs (a) and (b) of this section shall not apply so long as the maximum rents are regulated by another agency of the United States Government. Such maximum rental as established by such agency of the United States will be accepted by the Commissioner as an approved rent schedule. Upon the expiration of the authority of any such agency to fix maximum rentals, the established maximum rental schedule then in force with respect to the project shall be the established maximum rental schedule within the provisions of paragraphs (a) and (b) above of this section, and shall not thereafter be changed except upon approval of the Commissioner.

(d) A reserve for replacements shall be accumulated and maintained with the mortgagee so long as the mortgage insurance is in force, and the amount and types of such reserves and conditions under which they shall be accumulated, replenished and used, shall be specified in the charter. Failure to comply with the terms of this requirement may be considered by the Commissioner as a default under the terms of the charter.

(e) The mortgagor shall keep full and complete records of all corporate meetings of directors, stockholders and finance committee, if any, and of the elections and resignations of its officers; and shall keep complete, orderly and accurate books of account and shall also keep copies of all written contracts or other instruments which affect it or any of its property which shall be subject to inspection and examination by the Commissioner or his duly authorized agents at all reasonable times.

(f) The mortgagor shall furnish at the request of the Commissioner, his employees or attorneys, specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operation, condition of the property and the status of the insured mortgage and any other information with respect to the mortgagor or its property which may reasonably be required. The above enumeration of specific items shall not be deemed in any manner to limit the generality of the preceding sentence. In case the mortgagor is in default either under the insured mortgage or under its charter, or has failed to meet any of the applicable requirements of this section or is in default with respect to any agreement between the mortgagor and the mortgagee or under any contract for the improvement of the mortgaged premises or under any agreement to which the Federal Housing Commissioner is a party, or in case an inspection shows that the property is not being managed or maintained in a manner satisfactory to the Commissioner, the Commissioner may require the mortgagor to furnish at the expense of the latter a complete audit of its books of account duly certified by a public accountant satisfactory to the Commissioner.

§ 581.30 *Form of assurance of completion.* Assurance for the completion of a project may be either (a) the bond of a satisfactory surety company in the standard A. I. A. (or equivalent) form of construction bond in an amount at least equal to ten per centum (10%) of the construction cost, or (b) an escrow deposit in an approved depositary of cash or securities of, or fully guaranteed as to principal and interest by, the United States of America, in an amount at least equal to ten per centum (10%) of the construction cost, conditioned on completion of the project to the satisfaction of the Commissioner. This section shall not apply to any mortgage transaction where it is agreed between all parties thereto that no insurance of the mortgage or any part thereof is to be requested until after final completion of the project to the satisfaction of the Commissioner. In such cases, the Commissioner shall have the right of continual or periodic inspection of the construction of the improvements including the right of approval or disapproval thereof.

§ 581.31 *Waiver of requirements.* In the event the mortgagor is a Federal or State instrumentality, a municipal corporate instrumentality of one or more States, or a limited dividend corporation formed under and restricted by Federal or State housing laws as to rents, charges and methods of operation, as described in § 581.25 (b) of the Rules in this part, the Commissioner may, in his discretion, waive the requirements set forth in §§ 581.26 to 581.31 inclusive, in whole or in part.

Eligible Properties

§ 581.32 *Eligibility of property.* A mortgage to be eligible for insurance must be on real estate held in fee simple, or on the interest of the lessee under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having a period of not less than fifty (50) years to run from the date the mortgage is executed.

§ 581.33 *Development of property.* At the time the mortgage is insured the mortgagor shall have constructed and completed or shall be obligated to construct and complete new housing accommodations on the mortgaged property designed principally for residential use, conforming to standards satisfactory to the Commissioner, and consisting of detached, semidetached, or row houses, or multifamily structures.

§ 581.34 *Requirements regarding location and use of property by war workers.* Such dwellings shall be designed for rent for residential use by war workers and must be located in an area in which the President shall find that an acute shortage of housing exists or impends which would impede national war activities.

§ 581.35 *Compliance with zoning restrictions, etc.* Such dwellings and other improvements, if any, must not violate any zoning or deed restrictions applicable to the project site and must comply with all applicable building and other governmental regulations.

Title

§ 581.36 *Eligibility of title.* In order to be eligible for insurance, the Commissioner must determine that marketable title to the mortgaged property is vested in the mortgagor as of the date the mortgage is filed for record. The Commissioner will examine the title to property covered by a mortgage offered for insurance and in the event a determination of eligibility with respect to title is made as herein provided, such finding shall constitute a part of the contract of insurance evidenced by the insurance endorsement.

§ 581.37 *Title evidence.* Upon endorsement of the mortgage for insurance, the mortgagee, without expense to the Commissioner, shall furnish to the Commissioner a survey satisfactory to him and a policy of title insurance as provided in paragraph (a) of this section, *Provided, however,* That in the event the mortgagee is unable to furnish such policy for reasons satisfactory to the Commissioner, the mortgagee, without expense to the Commissioner, shall furnish evidence of title as provided in paragraphs (b), (c), or (d) of this section as the Commissioner may require.

(a) A policy of title insurance with respect to such mortgage issued by a company satisfactory to the Commissioner. Such policy shall comply with the "L. I. C. Standard Mortgagee Form," or the "A. T. A. Standard Mortgagee Form," or such other form as may be approved by the Commissioner and which offers substantially the same coverage under substantially the same conditions and stipulations. Such policies may contain such "permitted" and other exceptions, restrictions, and limitations as are approved by the Commissioner. The policy shall become effective as of the date the mortgage is filed for record and shall run to the mortgagee and the Commissioner, their successors and assigns, as their respective interests may appear.

(b) An abstract of title satisfactory to the Commissioner, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Commissioner, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(c) A Torrens or similar title certificate.

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

Insurance of Advances During Construction

§ 581.38 *Agreement as to manner and conditions governing advances.* (a) The Commissioner, the mortgagor and the mortgagee shall, prior to the insurance of the mortgage, agree with respect to the manner and conditions under which advances (if any) during construction are to be made by the mortgagee and approved for insurance by the Commissioner.

(b) Such agreement shall require the mortgagee to notify the Commissioner, through the insuring office having jurisdiction over the territory in which the property is situated, in writing, on an application form prescribed by the Commissioner, setting forth the proposed date and the amount of the advance to be made, and the Commissioner shall deliver to the mortgagee within a reasonable time from the date of such notice a certificate executed on behalf of the Commissioner on a form prescribed by him setting forth the amount approved for insurance or advising the mortgagee of the Commissioner's non-approval and setting forth the reasons therefor.

(c) Such agreement shall be set forth on a form prescribed by the Commissioner, shall contain such additional terms, conditions and provisions as the Commissioner shall in the particular case prescribe or approve, and when properly executed by the Commissioner and the mortgagee, shall constitute a part of the mortgage insurance contract.

§ 581.39 *Prevailing wage requirement.* No advance under any mortgage shall be eligible for insurance unless there is filed with the application for such advance a certificate or certificates in the form required by the Commissioner, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor prior to the beginning of construction and after the date of the filing of the application for insurance.

§ 581.40 *Effective date.* The regulations in this part are effective as to all mortgages in excess of $200,000.00 on which a commitment to insure under section 608 is issued, on or after the date hereof.

Issued at Washington, D. C., May 26, 1942.

ABNER H. FERGUSON,
Federal Housing Commissioner.

[F. R. Doc. 42-5225; Filed; June 4, 1942; 10:12 a. m.]

PART 582—WAR RENTAL HOUSING INSURANCE APPLICABLE TO ALL MORTGAGES INSURED

Sec.

AUTHORITY: §§ 582.1 to 582.20, inclusive, issued under Pub. Law 24, 77th Cong., as amended by Pub. Law 559, 77th Cong.

§ 581.1 *Citations.* These regulations in this part may be cited and referred to as "Regulations of the Federal Housing Commissioner under section 608 of the National Housing Act, issued May 26, 1942."

Definitions

§ 582.2 *Definitions of terms used in regulations.* As used in the regulations in this part:

(a) The term "Commissioner" means the Federal Housing Commissioner.

(b) The term "Act" means the National Housing Act, as amended.

(c) The term "mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances (including but not being limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State, district or Territory in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby.

(d) The term "insured mortgage" means a mortgage which has been insured by the endorsement of the Commissioner, or his duly authorized representative.

(e) The term "mortgagor" means the original borrower under a mortgage and its successors and such of its assigns as are approved by the Commissioner.

(f) The term "mortgagee" means the original lender under a mortgage, its successors and such of its assigns as are approved by the Commissioner, and includes the holders of the credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

Premiums

§ 582.3 *Annual mortgage insurance premiums.* The mortgagee, upon the date the mortgage becomes an insured mortgage, shall pay to the Commissioner a first interim mortgage insurance premium equal to one-half of one per centum (½ of 1%) of the original face amount of the mortgage. As to mortgages in which the first payment on account of principal becomes due more than one year from date of endorsement, the mortgagee shall pay, upon the anniversary of such date, a second interim mortgage insurance premium in a like sum. On the date on which the first monthly payment of principal is due the mortgagee shall pay to the Commissioner, subject to the adjustment hereinafter provided, and annually thereafter on the anniversary of such date until the mortgage is paid in full or claim under the contract of insurance is made or until the contract of insurance shall terminate, an annual mortgage insurance premium equal of one-half of one per centum (½ of 1%) of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable, and calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments. The premium payable on the date on which the first monthly payment of principal becomes due shall be adjusted so as to accord with such date and so that the aggregate of the premiums paid up to and including the premium due on such adjusted payment date shall, as to mortgages in which the first payment on account of principal becomes due within one year from date of endorsement, equal the sum of (a) one per centum (1%) of the average outstanding principal obligation of the mortgage during the interval from the date of endorsement up to and including the date on which the first monthly payment on account of principal is due and (b) one-half of one per centum (½ of 1%) per annum of the average outstanding principal obligation of the mortgage for the period from the date of the first monthly payment on account of principal to the next anniversary of such date; and shall, as to mortgages in which the first payment on account of principal becomes due more than one year from the date of endorsement, equal the sum of (1) one per centum (1%) of the average outstanding principal obligation of the mortgage for the year following the date on which the first interim premium became payable and (2) one-half of one per centum (½ of 1%) per annum of the average outstanding principal obligation of the mortgage for the period from the date when the second interim premium became payable down to and including one year following the date on which such first monthly payment of principal becomes due. Such premiums shall be paid either in cash or debentures issued under Title VI of the National Housing Act at par plus accrued interest.

§ 582.4 *Prepayment premium charges.* In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within thirty (30) days thereafter notify the Commissioner of the date of prepayment and shall collect from the mortgagor and pay to the Commissioner an adjusted premium charge of one per centum (1%) of the original face amount of the prepaid mortgage, except that if at the time of any such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original face amount of the prepaid mortgage, an adjusted premium shall be paid based upon the difference between such amounts at the rate applicable as above stated, depending upon the date of prepayment.

In no event shall the adjusted premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity.

No adjusted premium shall be collected by the mortgagee in the following cases:

(a) Where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original face amount of the prepaid mortgage; or

(b) Where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year fifteen per centum (15%) of the original face amount of the mortgage; or

(c) Where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (1) damage to the mortgaged property, or (2) a release of a part of such property if approved by the Commissioner; or

(d) Where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Commissioner.

Upon such prepayment the contract of insurance shall terminate.

The provisions of this section shall not be construed to prohibit the mortgagee from including in the mortgage and collecting from the mortgagor such additional charge for prepayment as may be agreed upon between the mortgagee and mortgagor.

Insurance Endorsement

§ 582.5 *Form of endorsement of original credit instrument.* Upon compliance satisfactory to the Commissioner with the terms and conditions of his commitment to insure, the Commissioner shall endorse the original credit instrument in form as follows:

No. ---------
Insured under Section 608
Of the National Housing Act
And Regulations Thereunder of the
Federal Housing Commissioner
In Effect on ----------
To the Extent of Advances
Approved by the Commissioner
FEDERAL HOUSING COMMISSIONER
By ----------
Authorized Agent
Date ----------

§ 582.6 *Contract of insurance.* The mortgage shall be an insured mortgage from the date of such endorsement. The Commissioner and the mortgagee shall thereafter be bound by the regulations in this part with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of these Regulations and of the National Housing Act. The term "contract of insurance" as used herein means the agreement evidenced by such endorsement.

§ 582.7 *Approval endorsement form.* After all advances under the mortgage have been made with the approval of the Commissioner, the Commissioner, upon proof of compliance with any and all conditions upon which prior advances were approved for insurance, and upon presentation of the original credit instrument, will make a notation below the insurance endorsement in form as follows:

A Total Sum of $ ----------
Has Been Approved for Insurance Hereunder
By the Commissioner
FEDERAL HOUSING COMMISSIONER
By ----------
Authorized Agent
Date ----------

Rights and Duties of a Mortgagee Under the Contract of Insurance

§ 582.8 *Benefits of insurance.* The mortgagee shall be entitled to receive the benefits of the insurance, at its option, either as provided in paragraph (a) or (b) of this section.

(a) If the mortgagor fails to make any payment due under or provided to be paid by the terms of the mortgage and such failure continues for a period of thirty (30) days, the mortgage shall be considered in default, and the mortgagee shall, within thirty (30) days thereafter, give notice in writing to the Commissioner of such default. At any time within thirty (30) days after the date of such notice, or within such further period as may be agreed upon by the Commissioner in writing, the mortgagee shall, in such manner as the Commissioner may require, assign, transfer, and deliver to the Commissioner the original credit instrument and the mortgage securing the same, without recourse or warranty, except that the mortgagee must warrant that no act or omission of the mortgagee has impaired the validity and priority of the mortgage, that the mortgage is prior to all mechanic's and materialmen's liens filed of record subsequent to the recording of such mortgage regardless of whether such liens attached prior to such recording date, and prior to all liens and encumbrances which may have attached or defects which may have arisen subsequent to the recording of such mortgage except such liens or other matters as may be approved by the Commissioner, that the amount stated in the instrument of assignment is actually due and owing under the mortgage, that there are no offsets or counterclaims thereto, and that the mortgagee has a good right to assign the mortgage and other items enumerated below:

(1) all rights and interest arising under the mortgage so in default;

(2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction;

(3) all policies of title or other insurance or surety bonds or other guaranties, and any and all claims thereunder;

(4) any balance of the mortgage loan not advanced to the mortgagor;

(5) any cash or property held by the mortgagee or its agents or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and

(6) all records, documents, books, papers, and accounts relating to the mortgage transaction.

Nothing contained in this paragraph shall be so construed as to prevent the mortgagee from taking action at a later date than herein specified, provided the Commissioner agrees thereto in writing.

The mortgagee, prior to the assignment of the mortgage to the Commissioner, shall offer evidence satisfactory to him that the original title coverage has been extended to include all advances of mortgage money made up to the date of assignment showing title satisfactory to the Commissioner as defined in § 582.11.

(b) If the mortgagor fails to make any payment to the mortgagee required by the mortgage, or to perform any other covenant or obligation under the mortgage, and such failure continues for the period of grace, if any, set forth in the mortgage, the mortgage shall be considered in default, and the mortgagee, within a period of thirty (30) days after the occurrence of a default arising on account of such failure to make any such payment or within such period after the mortgagee shall have knowledge of the occurence of a default arising on account of such failure to perform any other covenant or obligation under the mortgage, shall give notice in writing to the Commissioner of such default. At any time within a period of ninety (90) days after the date of such notice or within such later time as may be agreed upon by the Commissioner in writing,

the mortgagee, at its election, shall either:

(1) With, and subject to, the consent of the Commissioner, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(2) Institute proceedings for the foreclosure of the mortgage and obtain possession of the mortgaged property and the income therefrom through the voluntary surrender thereof by the mortgagor or institute, and prosecute with reasonable diligence, proceedings for the appointments of a receiver of the mortgaged property and the income therefrom or proceed to exercise such other rights and remedies as may be available to it for the protection and preservation of the mortgaged property and the income therefrom under the mortgage and the law of the particular jurisdiction: *Provided,* That if the laws of the State in which the mortgaged property is situated do not permit the institution of such proceedings within such period of time, the mortgagee shall institute such proceedings within sixty (60) days after the expiration of the time during which the institution of such proceedings is prohibited by such laws. Nothing contained in this subsection shall be so construed as to require the mortgagee to take any action when the necessity therefor has been waived in writing by the Commissioner nor to prevent the mortgagee from taking action at a later date than herein specified provided the Commissioner so agrees in writing. The mortgagee shall promptly give notice in writing to the Commissioner of the institution of foreclosure proceedings under this subsection and shall exercise reasonable diligence in prosecuting such proceedings to completion. If after default and prior to the completion of foreclosure proceedings the mortgagor shall pay to the mortgagee all payments in default and such expenses as the mortgagee shall have incurred in connection with the foreclosure proceedings, notice thereof shall be given to the Commissioner by the mortgagee, and the insurance shall continue as if such default had not occurred.

§ 582.9 *Computation of benefits received by assignment.* If the mortgagee elects to proceed under, and does proceed under and in accordance with, the provisions of § 582.8 (a), and furnishes evidence satisfactory to the Commissioner that there are no past due and unpaid ground rents, general taxes, or special assessments, and furnishes the warranties described in said section, the Commissioner shall deliver to the mortgagee—

(a) Debentures of the War Housing Insurance Fund as set forth in section 608 of the Act, issued as of the date the mortgage became in default, bearing interest from such date at the rate of two and one-half (2½%) per centum per annum, payable semi-annually on the first day of January and the first day of July of each year and having a total face value equal to the value of the mortgage as defined in section 608 (c) of the Act. Such value shall be determined by adding to the original principal of the mortgage which was unpaid on the date of default the amount the mortgagee may have paid for (1) taxes, special assessments, and water rates which are liens prior to the mortgage: (2) insurance on the property; and (3) reasonable expenses for the completion and preservation of the property; less the sum of (i) an amount equivalent to one per centum (1%) of the unpaid amount of such principal obligation on the date of default; (ii) any amount received on account of the mortgage after such date; and (iii) any net income received by the mortgagee from the property after such date. Such debentures shall be registered as to principal and interest and all or any such debentures may be redeemed at the option of the Commissioner with the approval of the Secretary of the Treasury at par and accrued interest on any interest payment day on three months' notice of redemption given in such manner as the Commissioner shall prescribe. Such debentures shall be issued in multiples of $50.00 and any difference not in excess of $50.00 between the amount of debentures to which the mortgagee is otherwise entitled hereunder and the aggregate face value of the debentures issued shall be paid in cash by the Commissioner to the mortgagee.

(b) A Certificate of Claim in accordance with section 608 (d) of the Act which shall become payable, if at all, upon the sale and final liquidation of the interest of the Commissioner in such property. This Certificate shall be for an amount which the Commissioner shall determine to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures. Each such Certificate of Claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such Certificate an increment at the rate of three per centum (3%) per annum.

§ 582.10 *Computation of benefits received by conveyance.* If the mortgagee elects to proceed under, and does proceed under and in accordance with, the provisions of § 582.8 (b) and at any time within thirty (30) days (or such further time as may be allowed by the Commissioner in writing) after acquiring title to and possession of the mortgaged property in accordance with such section, tenders to the Commissioner possession thereof and a Deed thereto containing a covenant which warrants against acts of the mortgagee and of all parties claiming by, through, or under the mortgagee, conveying title to such property satisfactory to the Commissioner, as provided in § 582.11, and assigns (without recourse or warranty) any and all claims which it has acquired in connection with the mortgage transaction and as a result of the foreclosure proceedings or other means by which it acquired such property, including but not limited to any claims on account of title insurance and fire or other hazard insurance, except such claims as may have been released with the prior approval of the Commissioner, the Commissioner shall promptly accept conveyance to such property and such assignments, notwithstanding that the buildings or improvements thereon shall be incomplete or may have been destroyed, damaged, or injured in whole or in part, and shall deliver to the mortgagee debentures and Certificate of Claim as provided in § 582.9, except that the one per centum (1%) deduction set out in paragraph (a) (3) (i) thereof with respect to the amount of debentures shall not apply.

§ 582.11 *Title in case of conveyance.* Title satisfactory to the Commissioner within the meaning of § 582.10 will be such title as was vested in the mortgagor as of the date the mortgage was filed for record, but must be free and clear of all mechanics' and materialmen's liens filed of record subsequent to the recording of such mortgage, regardless of whether such liens attached prior to such recording date, and free and clear of all liens and encumbrances which may have attached, or defects which may have arisen subsequent to the recording of such mortgage, except such liens or other matters as may be approved by the Commissioner.

§ 582.12 *Evidence of title.* The mortgagee, at the time a deed is tendered in accordance with § 582.10, shall furnish to the Commissioner without expense to him satisfactory evidence of such title. Such title evidence shall be executed as of a date to include the recordation of the deed to the Commissioner and, shall be in the form of an owner's policy of title insurance, or a satisfactory abstract and attorney's opinion covering the period subsequent to the recording of the mortgage, or a satisfactory continuation of the title evidence accepted by the Commissioner at the time the mortgage was insured, depending upon the form of title evidence originally accepted by the Commissioner.

§ 582.13 *Fire and hazard insurance.* The mortgaged premises shall at all times be insured against fire and other hazards as provided in the mortgage. The duty shall be upon the mortgagee to provide such coverage in the event the mortgagor fails to do so. If the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured, the contract of insurance may be terminated at the election of the Commissioner. If at the time claim is filed for debentures the property has been damaged by fire or other hazards and loss has been sustained by reason of failure to keep the property insured as provided in the mortgage, the amount of such loss may be deducted from the amount of the debentures. In the event a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the amount of any funds received by the mortgagee in payment of such loss shall be sufficient to pay in full the entire mortgage indebtedness, the mortgage shall, upon receipt of such funds by the mortgagee, be deemed paid and the contract of mortgage insurance made with the Commissioner shall thereupon terminate. If, however, any funds so received shall be insufficient to pay such mortgage indebtedness in full, the mortgagee

shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing or rebuilding of such premises or to apply such proceeds to the mortgage indebtedness without prior written approval of the Commissioner. If the Commissioner shall fail to give his approval to the use or application of such funds for either of said purposes within thirty (30) days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the Commissioner.

§ 582.14 *Mortgage default or prepayment.* If after the mortgage becomes in default, as provided in § 582.8, the mortgagee does not make the assignment provided in § 582.8 (a), or does not foreclose or otherwise acquire the mortgaged property and make the conveyance provided in § 582.10, and written notice thereof is given to the Commissioner; or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof and the mortgagee pays the adjusted premium charge required under the provisions of § 582.4 of these regulations and written notice thereof is given to the Commissioner, the obligation to pay the annual premium charge shall cease, and all rights of the mortgagee and the mortgagor under §§ 582.9 and 582.10 shall terminate as of the date of such notice.

§ 582.15 *Termination of contract of insurance.* In the event that the mortgagee fails to comply with the provisions of §§ 582.8 (a) and 582.9, or §§ 582.8 (b) and 582.10, then the contract of insurance shall thereupon terminate.

Assignments

§ 582.16 *In general.* (a) Bonds or other obligations issued in connection with an insured mortgage executed in the form of an indenture of trust providing for the issue and sale of such bonds or other obligations and appointing a trustee to act on behalf of the holders of such bonds or other obligations may be transferred as provided in the indenture of trust.

(b) An insured mortgage, other than a mortgage executed in the form of an indenture of trust providing for the issue and sale of bonds or other obligations and appointing a trustee to act on behalf of the holders of such bonds or other obligations, may be transferred (but, except with the written approval of the Commissioner, only subsequent to full disbursement of the mortgage loan) to a transferee who is a mortgagee approved by the Commissioner. Upon such approval and transfer and the assumption by the transferee of all obligations under the contract of insurance, the transferor shall be released from its obligations under the contract of insurance.

§ 582.17 *Termination of contract of mortgage insurance by assignment.* The contract of insurance shall terminate with respect to mortgages described in § 582.16 (b) upon the happening of either of the following events:

(a) The acquisition of the insured mortgage by or the pledge thereof to any person, firm, or corporation, public or private, except as specifically provided in § 582.16 (b).

(b) The disposal by a mortgagee of any partial interest in the insured mortgage by means of a declaration of trust or by a participation or trust certificate or by any other device unless with the prior written approval of the Commissioner: *Provided,* That this paragraph (b) shall not be applicable to any mortgage so long as it is held in a common trust fund maintained by a bank or trust company (1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, executor or administrator; and (2) in conformity with the rules and regulations prevailing from time to time of the Board of Governors of the Federal Reserve System, pertaining to the collective investment of trust funds: *Provided further,* That this paragraph (b) shall not be applicable to any mortgage so long as it is held in a common trust estate administered by a bank or trust company which is subject to the inspection and supervision of a governmental agency, exclusively for the benefit of other banking institutions which are subject to the inspection and supervision of a governmental agency, and which are authorized by law to acquire beneficial interests in such common trust estate.

Rights in Housing Fund

§ 582.18 *No vested right.* Neither the mortgagee nor the mortgagor shall have any vested or other right in the "War Housing Insurance Fund."

Amendments

§ 582.19 *Amendments to regulations.* The regulations in this part may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not affect the contract of insurance on any mortgage already insured or any mortgage or prospective mortgage on which the Commissioner has made a commitment to insure.

Effective Date

§ 582.20 *Effective date.* The regulations in this part shall be effective as to all mortgages with respect to which a commitment to insure under Section 608 is issued on or after the date hereof.

Issued at Washington, D. C., May 26, 1942.

ABNER H. FERGUSON,
Federal Housing Commissioner.

[F. R. Doc. 42-5226; Filed, June 4, 1942; 9:32 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

[T.D. 5152]

PART 171—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

BASIC PERMIT PROCEDURE UNDER FEDERAL ALCOHOL ADMINISTRATION ACT

1. By virtue of and pursuant to the provisions of the Federal Alcohol Administration Act, as amended (U.S.C. Sup., Title 27), section 3170 of the Internal Revenue Code (53 Stat., Part 1), and section 161 of the Revised Statutes (U.S.C., Title 5, sec. 22), the first paragraph of § 171.4d of Title 26 of the Code of Federal Regulations is hereby amended to read as follows:

§ 171.4d *Procedure.* Except as otherwise provided herein, the procedure prescribed by Regulations No. 3, Industrial Alcohol, effective June 4, 1942 (Part 182, Title 26, Code of Federal Regulations) for the issuance, amendment and denial of permits, issuance of citations, holding of hearings, revocation of permits, and appeals to the Commissioner under Part II of Subchapter C of Chapter 26 of the Internal Revenue Code is hereby extended to the issuance, amendment, denial, revocation, suspension and annulment of basic permits under the Federal Alcohol Administration Act, in so far as applicable and in so far as such procedure is not in conflict with the provisions of such Act. Appeals to the Deputy Commissioner in charge of the Alcohol Tax Unit from orders denying permits shall be taken in conformity with the procedure applicable to appeals from orders revoking permits.

2. These regulations shall take effect June 4, 1942.

[SEAL] STEWART BERKSHIRE,
Deputy Commissioner of Internal Revenue.

Approved: June 3, 1942.

GUY T. HELVERING,
Commissioner of Internal Revenue.
JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-5214; Filed, June 3, 1942; 3:18 p. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A-1445]

PART 323—MINIMUM PRICE SCHEDULE, DISTRICT NO. 3

RELIEF GRANTED, CERTAIN MINES

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 3 for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 3.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 3; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 323.6 (*Alphabetical list of code members*) is amended by adding thereto Supplement R–I, § 323.8 (*Special prices*—(b) *Railroad fuel prices for all movements except via lakes*) is amended by adding thereto Supplement R–II, § 323.8 (*Special prices*—(c) *Railroad fuel prices for movement via all lakes—all ports*) is amended by adding thereto Supplement R–III, and § 323.23 (*General prices*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof; and commencing forthwith the shipping points and freight origin group numbers appearing in the aforesaid Supplement R–I for Mine Index Nos. 812 and 1261 are effective in place of the shipping points and freight origin group numbers heretofore established for these mines.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: May 27, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 3

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 323, Minimum Price Schedule for District No. 3 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 323.6 *Alphabetical list of code members*—Supplement I

[Alphabetical listing of code members having railway loading facilities showing price classification by size group numbers]

Mine index No.	Code member	Mine name	Seam	Shipping point	Railroad	Freight origin group No.	Group size Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
512	Barnes, Oral	Oral Barnes	Pittsburgh	Bingamon Jct., W. Va.	WM	65	F	F	F	F	F	F	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
1326	Catlette, R. C	Brown #2	No. 5 Block	Tioga, W. Va	SC&M	11	D	D	D	D	D	D	D	D	D	D	B	B	B	A	A	A
1323	Concord Coal Co. (L. C. Halbritter).	Concord No. 1 (Strip)	Bakerstown	Newburg, W. Va	B&O	70	G	G	G	G	G	G	G	G	G	G	(†)	(†)	(†)	(†)	(†)	(†)
1330	Craig, C. W. (Newburg Coal Co.)	Scotch Hill #115D (Strip)	Pittsburgh	Newburg, W. Va	B&O	70	H	H	H	H	H	H	H	H	H	H	(†)	(†)	(†)	(†)	(†)	(†)
1331	Harris, Brent	Harris #4	Redstone	Buckhannon, W. Va	B&O	31	F	F	F	F	F	H	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
1261	Hunter, C. E	Shannon #1	H. V. Kitt	Coalton, W. Va.[1]	B&O	30	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(†)	(†)	(†)	(†)	(†)	(†)
1327	Island Run Coal Co. (A. D. Ware).	Island Run #2	H. V. Kitt	Junior, W. Va	WM	33	J	J	J	J	J	J	H	H	H	H	(†)	(†)	(†)	(†)	(†)	(†)
1328	Maylo & Son, J. T	Maylo #1	Pittsburgh	Morgantown, W. Va	Monon	52	F	F	F	F	F	F	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
1329	Monroe, R. S	Monroe (Strip)	Pittsburgh	Shinnston, W. Va	B&O	61	F	F	F	F	F	F	F	F	F	F	(†)	(†)	(†)	(†)	(†)	(†)
1324	Nordeck, E. C	Van Vorth	L. V. Kitt	Hutton, Md	Preston (B&O)	80	G	G	G	G	G	G	G	G	G	G	(†)	(†)	(†)	(†)	(†)	(†)
1332	Premar Coal Co., Inc	Monitor #1	M. V. Freeport	West End, W. Va	B&O	70	J	J	J	J	J	J	J	J	J	J	(†)	(†)	(†)	(†)	(†)	(†)
812	Tano, Fred	Janes	Pittsburgh	Benton Ferry, W. Va.[2]	B&O	50	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(†)	(†)	(†)	(†)	(†)	(†)

*Indicates coal in this size group previously classified.
†Indicates no classification or prices effective in this size group.
[1] Denotes new shipping point, railroad, and freight origin group. Shipping point at Norton, W. Va. on Western Maryland in freight origin group No. 33 shall no longer be applicable.
[2] Denotes new shipping point and freight origin group. Shipping point at Shinnston, W. Va. on Baltimore & Ohio Railroad in freight origin group No. 61 shall no longer be applicable.

§ 323.8 *Special prices*—(b) *Railroad fuel prices for all movements except via lakes*—Supplement R–II. For railroad fuel prices add these mine index numbers to the respective groups set forth in § 323.8 (b) in Minimum Price Schedule. Group No. 1: 512, 1328 (a), 1329, 1330; Group No. 2: 1331; Group No. 3: 1327, 1332; Group No. 5: 1326; Group No. 6: 1323, 1324.

The letter (a) following Mine Index No. 1328 should be included in groups in § 323.8 (b) only.

§ 323.8 *Special prices*—(c) *Railroad fuel prices for movement via all lakes—all ports*—Supplement R–III. For railroad fuel prices add these mine index numbers to the respective groups set forth in § 323.8 (c) Minimum Price Schedule. Group No. 1: 512, 1328 (a), 1329, 1330; Group No. 2: 1331; Group No. 3: 1327, 1332; Group No. 5: 1326; Group No. 6: 1323, 1324.

FOR TRUCK SHIPMENTS

§ 323.23 *General prices*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Seam	County	Size groups: Lump over 2" egg over 2" bottom size	Lump 2", egg 2" bottom size but over 1¼"	Lump 1¼" and under, egg 1¼" and under, bottom size	All nut and pea 2" and under	Run of mine resultant over 2"	1¼" and 2" slack	¾" slack
					1	2	3	4	5	6	7
Catlette, R. C	1326	Brown #2	No. 5 Block	Nicholas	248	238	238	203	203	183	173
Concord Coal Co. (L. C. Halbritter).	1323	Concord No. 1 (Strip).	Bakerstown	Preston	235	235	235	210	210	200	190
Craig, C. W. (Newburg Coal Co.)	1330	Scotch Hill #115D (Strip).	Pittsburgh	Preston	230	230	230	205	205	195	185
Harris, Brent	1331	Harris #4	Redstone	Upshur	223	218	218	193	183	178	168
Island Run Coal Co. (A. D. Ware).	1327	Island Run #2	H. V. Kitt	Barbour	208	203	203	178	178	168	158
Mayle & Son, J. T	1328	Mayle #1	Pittsburgh	Monongalia	223	218	218	193	193	178	168
Monroe, R. S	1329	Monroe (Strip)	Pittsburgh	Harrison	223	218	218	193	193	178	168
Nordeck, E. C	1324	Van Verth	L. V. Kitt	Preston	235	235	235	210	210	200	190
Premar Coal Co., Inc.	1332	Monitor #4	M. V. Freeport	Preston	225	225	225	200	200	190	180

[F. R. Doc. 42-5188; Filed, June 3, 1942; 11:01 a. m.]

[Docket No. A-1312]

PART 324—MINIMUM PRICE SCHEDULE, DISTRICT NO. 4

MUSKINGUM COAL CO., RELIEF GRANTED

Order granting relief in the matter of the petition of District Board No. 4 for the establishment of price classifications and minimum prices for the coals of Mine Index Nos. 335, 336, 337, and 338, and the revision of price classifications and minimum prices for the coals of Mine Index Nos. 160, 206, and 207, all of the Muskingum Coal Company, a code member in District No. 4.

An original petition having been filed with the Bituminous Coal Division by District Board No. 4, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requesting that the Schedule of Effective Minimum Prices for District No. 4 For All Shipments Except Truck be amended by increasing the effective minimum prices by 43 cents for the coals produced at mines of the Muskingum Coal Company for all-rail shipment to the Philo plant of the Ohio Power & Light Company, and that said schedule be supplemented by the establishment of classifications and minimum prices for the coals produced by Mine Index Nos. 335, 336, 337, and 338, of the Muskingum Coal Company, for which no classifications or minimum prices had theretofore been established;

Pursuant to an Order of the Acting Director, temporary relief having been granted on March 12, 1942, 7 F.R. 2064, establishing the classifications and minimum prices for Mine Index Nos. 335, 336, 337, and 338; and, pursuant to said Order, a public hearing having been held in this matter before W. A. Shipman, a duly designated Examiner of the Bituminous Coal Division, at a hearing room thereof in Washington, D. C., at which all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard;

The preparation and filing of a report by the Examiner having been waived and the matter having thereupon been submitted to the Acting Director;

The Acting Director having made Findings of Fact, Conclusions of Law, and having rendered an Opinion in this matter, which are filed herewith;

Now, therefore it is ordered, That effective fifteen (15) days from the date hereof § 324.1 (*Price instructions and exceptions*—(b) *Price exceptions*) in the Schedule of Effective Minimum Prices for District No. 4 For All Shipments Except Truck be and it hereby is amended by the addition of the following Price Exception:

On all carload shipments of coal originating from points on the Baltimore and Ohio Railroad between Duncan Run, Ohio, and Five Mile Bridge, Ohio, for delivery to Philo (Duncan Falls), Ohio, the present effective minimum prices shall be increased by the difference between the base rate of 63 cents per ton and the established freight rate.

And it is further ordered, That § 324.7 (*Alphabetical list of code members*), § 324.8 (*Numerical list of mines*), § 324.2 (*Seasonal discounts*), § 324.9 (*Recapitulation of price classifications*), and § 324.11 (*Special prices*—(a) *Railroad fuel prices for all movements exclusive of lake cargo railroad fuel*) in the Schedule of Effective Minimum Prices for District No. 4 For All Shipments Except Truck be and they hereby are amended to include the price classifications and minimum prices set forth in Supplements R-I, R-II, R-III, R-IV, and R-V, annexed hereto and made a part hereof.

Dated: May 25, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

PERMANENT EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 4

NOTE: The material in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 324, Minimum Price Schedule for District No. 4 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 324.7 *Alphabetical list of code members*—Supplement R-I

[Alphabetical list of code members having railway loading facilities, showing price classification by size group numbers]

Mine index No.	Code member	Mine name	Sub-district No.	Seam	Type	Shipping points in Ohio	Railroad	Freight origin group Nos.	Price classifications by size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12
335	Muskingum Coal Co., The	Muskingum-Jones No. 8	6	6	Deep	Sealover	B&O	31	O	O	O	O	O	O	Q	Q	Q	(†)	(†)	Q
336	Muskingum Coal Co., The	Muskingum-Jones No. 9	6	6	Deep	Sealover	B&O	31	O	O	O	O	O	O	Q	Q	Q	(†)	(†)	Q
337	Muskingum Coal Co., The	Muskingum-Jones No. 10	6	6	Deep	Sealover	B&O	31	O	O	O	O	O	O	Q	Q	Q	(†)	(†)	Q
338	Muskingum Coal Co., The	Muskingum-Jones No. 11	6	6	Deep	Sealover	B&O	31	O	O	O	O	O	O	Q	Q	Q	(†)	(†)	Q

NOTE: On all carload shipments of coal originating from points on the Baltimore & Ohio Railroad between Duncan Run, Ohio, and Five Mile Bridge, Ohio, for delivery to Philo (Duncan Falls), Ohio, the present Effective Minimum Prices shall be *Increased* by the difference between the base rate of 63¢ a ton of 2,000 pounds and the established freight rate.

§ 324.8 *Numerical list of mines*—Supplement R–II

Mine Index No.	Mine name	Code member	Freight origin districts	Freight origin group No.	Railroad	Subdistrict No.
335	Muskingum-Jones No. 8	Muskingum Coal Co., The	Crooksville	31	B&O	6
336	Muskingum-Jones No. 9	Muskingum Coal Co., The	Crooksville	31	B&O	6
337	Muskingum-Jones No. 10	Muskingum Coal Co., The	Crooksville	31	B&O	6
338	Muskingum-Jones No. 11	Muskingum Coal Co., The	Crooksville	31	B&O	6

§ 324.2 *Seasonal discounts*—Supplement R–III

[On all shipments of coal in size groups 1 or 2, the discounts shown below in cents per net ton may apply. The date of shipment and not the date of sale shall govern the seasonal price applicable. These seasonal discounts apply for shipments to all market areas except market areas 1 to 13, inclusive, 98 and 99 (Great Lakes), river shipments, vessel fuel and railroad fuel]

Freight origin districts	Freight origin group Nos.	Mine index Nos.	Additional mine index Nos.	Amount of discount for shipments during the month of—				
				April	May	June	July	August
Crooksville	31, 32, 33, 34, 36.	4, 28, 66, 85, 91, 104, 106, 125, 138, 143, 146, 155, 156, 160, 162, 165.	Add Mine Index Nos. 335, 336, 337, 338.	30	20	10	----	----

NOTE: Seasonal discounts as shown in § 324.2 in the schedule of effective minimum prices apply to all additional mine index numbers hereinabove noted.

§ 324.9 *Recapitulation of price classifications*—Supplement R–IV

Prices for all rail shipment from mines indexed below into market areas as shown. For shipment into all market areas—see schedule of effective minimum prices, §§ 324.9 and 324.10. Also applies to market areas 98 and 99 (Great Lakes), §§ 324.11 (b), 324.11 (c), and vessel fuel, § 324.11 (d)]

Freight origin districts	Freight origin group Nos.	Mine index Nos.	Index Nos.
Crooksville	31, 32, 33, 34, 36	4, 28, 66, 85, 91, 104, 106, 125, 138, 143, 146, 155, 156, 160, 162, 165.	Add mine index Nos. 335, 336, 337, 338.

NOTE: Prices as shown in §§ 324.9, 324.10, 324.11 (b), 324.11 (c), 324.11 (d) in the schedule of effective minimum prices apply to all additional mine index numbers hereinabove noted.

§ 324.11 *Special prices*—(a) *Railroad fuel prices for all movements exclusive of lake cargo railroad fuel*—Supplement R–V

[Railroad fuel prices for all movements exclusive of lake cargo railroad fuel from mines indexed below for shipment to railroads as shown—See schedule of effective minimum prices, § 324.11 (a)]

Name of railroad	Mine index Nos.	Additional mine index Nos.
Baltimore & Ohio Railroad Co	4, 28, 66, 85, 91, 104, 106, 125, 138, 143, 146, 155, 156, 160, 162, 165.	Add mine index Nos. 335, 336, 337, 338.
Akron, Canton & Youngstown Railway Co Ann Arbor Railroad Co Canadian National Railways and Grand Trunk Railway System Canadian Pacific Railway Co Detroit and Mackinac Railway Company Detroit & Toledo Shore Line Railroad Co Erie Railroad Nickel Plate Road (New York, Chicago & St. Louis Railroad Co.) Pere Marquette Railway Co	From all mine index Nos. except those shown below.	Add mine index Nos. 335, 336, 337, 338.
For all railroads not shown above	From all mine index Nos. except those shown below.	Add mine index Nos. 335, 336, 337, 338.

NOTE: Prices as shown in § 324.11 (a) in the Schedule of Effective Minimum Prices apply to all additional mine index numbers hereinabove noted.

[F. R. Doc. 42–5189; Filed, June 3, 1942; 11:00 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Selective Service System

PART 622—CLASSIFICATION

[Amendment 57, 2d Ed.]

OCCUPATIONAL DEFERMENT—USE OF GOVERNMENTAL AGENCIES TO OBTAIN INFORMATION

By authority vested in me as Director of Selective Service under 54 Stat. 885; 50 U. S. C., Sup. 301–318, inclusive; E. O. No. 8545, 5 F. R. 3779, Selective Service Regulations, Second Edition, are hereby amended in the following respect:

1. Amend paragraph (c) of § 622.23 to read as follows:

§ 622.23 *General rules for classification in Class II–A and Class II–B.* * * *

(c) The local board may avail itself of the assistance of all Federal, State, or local agencies to obtain information which will help it to determine whether a claim for occupational deferment should be granted.

2. The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

JUNE 2, 1942.

[F. R. Doc. 42–5210; Filed, June 3, 1942; 1:13 p. m.]

[Amendment 58, 2d Ed.]

PART 622—CLASSIFICATION

CONSCIENTIOUS OBJECTORS

By authority vested in me as Director of Selective Service under 54 Stat. 885; 50 U.S.C., Sup. 301–318, inclusive; E.O. No. 8545, 5 F.R. 3779, Selective Service Regulations, Second Edition, are hereby amended in the following respects:

1. Amend § 622.51 to read as follows:

§ 622.51 *Class IV–E: Available for general service in civilian work of national importance: conscientious objector.* (a) In Class IV–E shall be placed every registrant who, upon classification before physical examination by the local board examining physician, has not been placed in Class IV–F (by reason of being morally unfit), Class IV–D, Class IV–C, Class IV–B, Class IV–A (not considered in time of war), Class III–B, Class III–A, Class II–B, Class II–A, or Class I–H and who, upon classification after physical examination by the local board examining physician, has not been

found to have any defect set forth in Part I or in Part II of the List of Defects (Form 220) and who has been found, by reason of religious training and belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to both combatant and noncombatant military service, and every such registrant shall be available for general service in work of national importance under civilian direction when found to be acceptable for such service.

(b) Upon being advised by the Director of Selective Service that a registrant who was inducted into the land or naval forces for general military service will be discharged because of conscientious objections which make him unadaptable to military service, the local board shall change such registrant's classification and place him in Class IV–E. The Director of Selective Service shall assign such registrant for general service to work of national importance under civilian direction.

2. Amend § 622.52 to read as follows:

§ 622.52 *Class IV–E–LS: Available for limited service in civilian work of national importance; conscientious objector.* (a) In Class IV–E–LS shall be placed every registrant who, upon classification before physical examination by the local board examining physician, has not been placed in Class IV–F (by reason of being morally unfit), Class IV–D, Class IV–C, Class IV–B, Class IV–A (not considered in time of war), Class III–B, Class III–A, Class II–B, Class II–A, or Class I–H, and who, upon classification after physical examination by the local board examining physician, has not been placed in Class IV–F (by reason of having a defect set forth in Part I of the List of Defects (Form 220)) and who has been found to have one of the defects set forth in Part II of the List of Defects (Form 220), and who has been found, by reason of religious training and belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to both combatant and noncombatant military service, and every such registrant shall be available for limited service in work of national importance under civilian direction when found to be acceptable for such service.

(b) Upon being advised by the Director of Selective Service that a registrant who was inducted into the land or naval forces for limited military service will be discharged because of conscientious objections which make him unadaptable to military service, the local board shall change such registrant's classification and place him in Class IV–E–LS. The Director of Selective Service shall assign such registrant for limited service to work of national importance under civilian direction.

3. The foregoing amendments to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

JUNE 2, 1942.

[F. R. Doc. 42–5212; Filed, June 3, 1942; 1:13 p. m.]

PART 652—ASSIGNMENT AND DELIVERY OF PERSONS TO WORK OF NATIONAL IMPORTANCE UNDER CIVILIAN DIRECTION

[Amendment 59, 2d Ed.]

CONSCIENTIOUS OBJECTOR: ASSIGNMENT, DELINQUENCY, ETC.

By authority vested in me as Director of Selective Service under 54 Stat. 885; 50 U.S.C., Sup. 301–318, inclusive; E.O. No. 8545, 5 F.R. 3779, Selective Service Regulations, Second Edition are hereby amended in the following respects:

1. Amend paragraph (a) of § 652.2 to read as follows:

§ 652.2 *Assignment by Director of Selective Service.* (a) The Director of Selective Service, upon receipt of (1) the Conscientious Objector Report (Form 48) for a registrant or (2) information from the land or naval forces that a registrant who has been inducted into the land or naval forces will be discharged because of conscientious objections which make him unadaptable to military service, shall assign the registrant to a camp. Such assignment will be made on an Assignment to Work of National Importance (Form 49), which shall be made out in triplicate. The original and one copy will be mailed to the State Director of Selective Service, who shall forward the original to the local board designated therein and file the copy. If the Assignment to Work of National Importance (Form 49) is sent to a local board other than the registrant's local board, the registrant's local board will be notified of such action so that appropriate notations may be made in its records.

* * * * *

2. Amend paragraphs (a) and (c) of § 652.11 to read as follows:

§ 652.11 *Preparation and distribution of Order to Report: delinquency of IV–E registrants.* (a) Upon receipt of an Assignment to Work of National Importance (Form 49) for a registrant, the local board shall prepare six copies of an Order to Report for Work of National Importance (Form 50). The local board shall then proceed as follows:

(1) In the case of a registrant classified in Class IV–E: Mail the original of the Order to Report for Work of National Importance (Form 50) to the registrant at least 10 days before the date set for him to report. At the time the registrant leaves the local board for the camp, mail the remaining five copies of the Order to Report for Work of National Importance (Form 50), together with the Armed Forces' Original, the Surgeon General's Copy, and the National Headquarters' Copy of the registrant's Report of Physical Examination and Induction (Form 221), to the camp directors, and retain the Local Board's Copy of the registrant's Report of Physical Examination and Induction (Form 221) in the registrant's Cover Sheet (Form 53).

(2) In the case of a registrant discharged from the land or naval forces because of conscientious objections which make him unadaptable for military service: Mail or deliver to the registrant before the time set for him to report, the original of the Order to Report for Work of National Importance (Form 50). At the time the registrant leaves the local board for the camp, mail the remaining five copies of the Order to Report for Work of National Importance (Form 50), together with a letter explaining the circumstances under which the registrant was ordered to report for work of national importance, to the camp director at such camp. No other records shall be forwarded to the camp director with such registrant.

When an Order to Report for Work of National Importance (Form 50) is mailed or delivered to a registrant as hereinbefore provided, it shall be his duty to comply therewith, to report to the camp at the time and place designated therein, and to thereafter perform work of national importance under civilian direction for the period, at the place, and in the manner provided by law.

* * * * *

(c) If for any reason an Order to Report for Work of National Importance (Form 50) is not sent to a registrant for whom an Assignment to Work of National Importance (Form 49) has been received from the Director of Selective Service, or in the event a registrant who has been sent an Order to Report for Work of National Importance (Form 50) does not report to the local board pursuant to such order, the local board shall report such fact to the Director of Selective Service through the State Director of Selective Service. If any such registrant becomes delinquent by reason of his failure to perform any of his obligations under the selective service law, his case should be handled under the provisions of part 642 in the same manner as in the case of any other delinquent registrant.

3. The foregoing amendments to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

LEWIS B. HERSHEY,
Director.

JUNE 2, 1942.

[F. R. Doc. 42–5213; Filed, June 3, 1942; 1:13 p. m.]

[No. 83]

CRITICAL AND NONCRITICAL JOB CERTIFICATES

ORDER PRESCRIBING FORMS

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder and more particularly the provisions of § 605.51 of the Selective Service Regulations, I hereby prescribe the following changes in DSS forms:

1. Addition of a new form designated as DSS Form 325, entitled "Critical Job Certificate," effective immediately upon the filing hereof with the Division of the Federal Register.

2. Addition of a new form designated as DSS Form 326, entitled "Noncritical Job Certificate," effective immediately upon the filing hereof with the Division of the Federal Register.

The foregoing additions shall, effective immediately upon the filing hereof with the Division of the Federal Register, become a part of the Selective Service Regulations.

LEWIS B. HERSHEY,
Director.

JUNE 2, 1942.

[F. R. Doc. 42-5211; Filed, June 3, 1942; 1:15 p. m.]

Chapter IX—War Production Board

Subchapter B—Division of Industry Operations

PART 1020—AUTOMATIC PHONOGRAPHS AND WEIGHING, AMUSEMENT AND GAMING MACHINES

[Amendment 2 to Supplementary General Limitation Order L-21-a]

Section 1020.2 *Supplementary General Limitation Order L-21-a*[1] is hereby amended by inserting a new paragraph (b) as follows:

(b) *Restrictions on manufacturers of parts.* On and after June 4th, 1942, no manufacturer of parts for automatic phonographs or weighing, amusement or gaming machines shall perform any act which would be a violation of any of the provisions of paragraph (a) if performed by a manufacturer of automatic phonographs or weighing, amusement or gaming machines on or after that date.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 4th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5250; Filed, June 4, 1942; 11:09 a. m.]

[1] 7 F.R. 2126, 2787, 3320.

PART 1095—COMMUNICATIONS

[Amendment 1 of General Conservation Order L-50, as Amended April 23, 1942]

General Conservation Order No. L-50,[1] as amended April 23, 1942 (§ 1095.1) is hereby amended as follows:

Paragraph (b) (1) is amended by inserting after the last word in that paragraph, the following:

* * *, except:

(i) A permanent installation in lieu of one temporarily made to meet an exigency.

(ii) A substitution of facilities utilizing a lesser amount of material where the service demands of a subscriber have so decreased as to warrant the substitution, provided the material and/or facilities recovered are currently reusable in meeting demands for service not otherwise prohibited by this order.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 4th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5249; Filed, June 4, 1942; 11:08 a. m.]

PART 1160—COAL STOKERS

[Amendment 1 to General Limitation Order L-75]

Section 1160.1 *General Limitation Order L-75*[2] is hereby amended in the following respects:

Paragraph (b) (3) of § 1160.1 *General Limitation Order L-75* is hereby amended to read as follows:

(3) After May 31, 1942, no person shall produce, fabricate or assemble any Class B coal stoker; except that any person may assemble, during the period from May 31, 1942, to and including September 30, 1942, any Class B coal stoker which is composed wholly of fabricated parts which were in his physical possession on May 31, 1942.

This amendment shall take effect immediately.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 4th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5247; Filed, June 4, 1942; 11:08 a. m.]

[1] 7 F.R. 3029.
[2] 7 F.R. 2840.

PART 1161—OIL BURNERS

[Amendment 1 to General Limitation Order L-74]

Section 1161.1 *General Limitation Order L-74*[1] is hereby amended in the following respects:

Paragraph (a) (2) is hereby amended to read as follows:

(2) "Class A oil burner" means:

(i) Any oil burner which is specifically designed for use on a ship, for use in cooking, or for use in heat treating or processing, and

(ii) Any oil burner which has a capacity for burning oil at a rate in excess of fifteen (15) gallons per hour.

Paragraph (a) (3) is hereby amended to read as follows:

(3) "Class B oil burner" means any oil burner other than a Class A oil burner.

This amendment shall take effect immediately.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 4th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5248; Filed, June 4, 1942; 11:08 a. m.]

PART 1179—GOLF CLUBS

[Amendment 3 to Limitation Order L-93]

Section 1179.1 *General Limitation Order L-93*[1] is hereby amended in the following particulars:

Paragraph (b) (2) is hereby amended by striking therefrom the words "After May 31, 1942", and inserting instead the words "On and after June 30, 1942".

Paragraph (b) is hereby amended by adding at the end thereof the following new subparagraph:

(7) Any manufacturer who possessed in his inventory prior to April 9, 1942, iron or steel which had been fabricated into golf club parts prior to April 9, 1942, may during the month of June, 1942, use such iron or steel for the production and assembly of golf clubs in an amount not to exceed 50% of the average monthly amount of iron and steel used by him in the production of golf clubs during the calendar year 1941.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 4th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42-5245; Filed, June 4, 1942; 11:08 a. m.]

[1] 7 F.R. 2735, 2868, 3518.

PART 1213—SAFETY EQUIPMENT

[Amendment 1 to General Limitation Order L–114]

Paragraph (c) (1) of § 1213.1 *General Limitation Order L–114*[1] is amended to read as follows:

(1) Prior to the date of this order or from parts which were finished and ready for assembly on said date, provided such safety equipment is delivered to fill purchase orders bearing preference ratings of A–10 or higher, or

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 4th day of June 1942.

J. S. KNOWLSON,
Director of Industry Operations.

[F. R. Doc. 42–5246; Filed, June 4, 1942; 11:08 a. m.]

Chapter XI—Office of Price Administration

PART 1340—FUEL

[Amendment 2 to Maximum Price Regulation 137[2]]

MOTOR FUEL SOLD AT SERVICE STATIONS

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.

Section 1340.86 is amended to read as set forth below:

§ 1340.86 *Statement and postings of maximum prices of motor fuel sold at service stations.* (a) Every person subject to this Maximum Price Regulation No. 137 shall post the maximum price for each grade of motor fuel in a manner plainly visible to, and understandable by, each purchaser. Such posting shall be marked "Maximum Prices", beneath which shall be marked each grade of motor fuel (premium, regular, third) offered for sale and opposite each grade shall be stated the maximum price for that grade of motor fuel.

(b) On or before July 1, 1942 every person subject to this Maximum Price Regulation No. 137 shall file with the appropriate War Price and Rationing Board of the Office of Price Administration a statement showing his maximum price for each grade of motor fuel together with an appropriate description of its specifications. Such statement shall be kept up to date by such person by filing on the first day of every succeeding month a statement of his maximum price for each grade of motor fuel newly offered for sale by him at a service station during the previous month together with an appropriate description of its specifications.

§ 1340.93a *Effective date of amendments.* * * *

(b) Amendment No. 2 (§ 1340.86) to Maximum Price Regulation No. 137 shall become effective June 4, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 4th day of June, 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42–5254; Filed, June 4, 1942; 11:52 a. m.]

PART 1378—COMMODITIES OF MILITARY SPECIFICATIONS FOR WAR PROCUREMENT AGENCIES

[Maximum Price Regulation 157]

SALES AND FABRICATION OF TEXTILES, APPAREL AND RELATED ARTICLES FOR MILITARY PURPOSES

In the judgment of the Price Administrator it is necessary and proper to establish maximum prices for sales and fabrication of textiles, apparel and related articles used for military purposes at levels which differ from the prices at which such commodities were delivered during March 1942. Such action is required in order to adjust the maximum prices established by the General Maximum Price Regulation[1] (a) to allow for certain increases in labor and material costs which were not reflected in the prices of these commodities being delivered that month, and (b) to allow for increases in all costs directly resulting from changes in specification requirements. The maximum prices established by this Regulation are, in the judgment of the Administrator, generally fair and equitable. A statement of the considerations involved in the issuance of this Regulation is issued simultaneously herewith and has been filed with the Division of the Federal Register.

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942 and in accordance with Procedural Regulation No. 1[2] issued by the Office of Price Administration, Maximum Price Regulation No. 157 is hereby issued.

AUTHORITY: §§ 1378.1 to 1378.10, inclusive, issued under Pub. Law 421, 77th Cong.

§ 1378.1 *Sales and fabrication services covered by this Maximum Price Regulation No. 157.* (a) This Maximum Price Regulation No. 157 shall apply, except as set forth in paragraph (b) of this section, and the General Maximum Price Regulation[1] shall not apply, to sales or fabrication of textiles, apparel and related articles pursuant to contract with:

(1) Any war procurement agency of the United States government; or

(2) Any person who contracts to sell the purchased or fabricated commodity or a commodity processed therefrom to any war procurement agency of the United States government or to any contractor or subcontractor who physically incorporates such commodity or a commodity processed therefrom in an article being processed for any such war procurement agency.

(b) The maximum prices established by this Maximum Price Regulation No. 157 shall not apply to any sale or fabrication service for which a maximum price is in effect, at the time of such sale or delivery, under the terms of any other maximum price regulation, schedule or order issued by the Office of Price Administration, except the General Maximum Price Regulation.[1]

(c) (1) As used in this Maximum Price Regulation No. 157, the term "textiles, apparel and related articles" shall mean the following commodities when made in accordance with military specifications:

(i) Yarns, textiles and textile products;

(ii) Leather, fur, and products thereof;

(iii) Rubber fabrics, apparel and footwear; and

(iv) Wearing apparel, including findings, and other individual, organizational, or ship's personnel equipment made in whole or in part of any of the materials listed in subdivisions (i) and (ii) of this subparagraph (1) or from rubber, except rubber drug sundries.

(2) If the contracting officer of any war procurement agency of the United States government and a person who contracts to sell or supply to such agency any commodity or fabrication service, shall both certify to the Office of Price Administration that they are unable in good faith to determine whether such commodity or fabrication service falls within the term "textiles, apparel and related articles" as defined in subparagraph (1) of this paragraph (c), then such commodity shall be deemed to be included in such term and shall be subject to all of the provisions of this Maximum Price Regulation No. 157.

§ 1378.2 *Prohibition against dealing in textiles, apparel and related articles at prices above the maximum.* (a) On and after July 1, 1942, regardless of any contract, agreement, lease, or other obligation:

(1) No person shall sell or deliver any textiles, apparel or related articles or supply any fabrication service in any transaction subject to this Maximum Price Regulation No. 157, at a price in excess of the maximum prices established herein;

(2) No person in the course of trade or business shall buy or receive any textiles, apparel or related articles or fabrication service in any such transaction at a price in excess of the maximum prices established herein;

(3) No person shall agree, offer, solicit, or attempt to do any of the foregoing.

(b) The provisions of paragraph (a) (2) of this section shall not be applicable to any war procurement agency or any contracting officer thereof, and any such contracting officer or any paying finance officer shall be relieved of any and every liability, civil or criminal, imposed by this Maximum Price Regulation No. 157, or by the Emergency Price Control Act of 1942.

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[1] 7 F.R. 3369.
[2] 7 F.R. 3165, 3749.

[1] 7 F.R. 3153, 3330, 3666.
[2] 7 F.R. 971, 3663.

[1] Supra.

§ 1378.3 *Maximum prices for sales or fabrication of textiles, apparel and related articles for military purposes.* The seller's maximum price for any sale or fabrication service covered by this Maximum Price Regulation No. 157 shall be determined as follows:

(a) In those cases in which the seller delivered the same article or supplied the same fabrication service prior to April 1, 1942:

The maximum price shall be the highest price at which delivery or supply thereof was made by the seller prior to April 1, 1942, plus if any, the seller's increases in material and labor costs as defined herein. (1) The seller's increase in material cost shall be the difference between (i) the actual cost of material embodied in the article delivered pursuant to the highest-priced contract mentioned above and (ii) the highest cost which he would have incurred for such materials if purchased from his customary or an equivalent source of supply for delivery at any time during March 1942. (2) The seller's increase in labor cost shall be the difference between (i) his labor cost for the article or fabrication service computed on the basis of wage rates paid by the seller on the date of making the highest-priced contract mentioned above and (ii) such labor cost computed on the basis of wage rates paid by the seller on March 31, 1942, plus any increase subsequent thereto made pursuant to a collective bargaining contract or other wage agreement which contract or agreement (*a*) was entered into on or before April 27, 1942, and (*b*) provides for an unconditional increase in wage rates of a fixed amount or per cent. (3) The foregoing costs shall be determined in accordance with the customary accounting policy of the seller.

(b) In those cases in which the seller delivered an article or supplied a fabrication service prior to April 1, 1942, the same as the article or service to be priced except for differences due to changes in specifications, including those pertaining to delivery:

The maximum price shall be the price determined in paragraph (a) of this section adjusted up or down in an amount equal to actual increases or decreases, if any, in costs directly resulting from such changes in specifications.

§ 1378.4 *Sales or fabrication of textiles, apparel and related articles for military purposes temporarily exempted from price regulation.* (a) In any case in which the seller certifies that such seller, prior to April 1, 1942, did not previously deliver the same article or supply the same fabrication service (or an article or fabrication service the same except for difference in specifications, including those pertaining to delivery), the sale of such article or the supply of such fabrication service by such seller shall not be subject to the provisions of this Maximum Price Regulation No. 157, or the General Maximum Price Regulation.[1]

[1] Supra.

(b) The certification by the seller, referred to in paragraph (a) of this section shall be effected as follows:

(1) If the sale is made to a war procurement agency, the seller shall furnish to such agency a written certificate, and furnish a copy thereof to the Office of Price Administration within 10 days after contracting to sell or supply each article or fabrication service.

(2) If the sale is made to any person other than a war procurement agency, the seller shall furnish to his purchaser a written certificate and furnish a copy to the Office of Price Administration within 10 days after contracting to sell or supply such article or fabrication service.

§ 1378.5 *Less than maximum prices.* Lower prices than those established by this Maximum Price Regulation No. 157 may be charged, demanded, paid or offered.

§ 1378.6 *Evasion.* The price limitations set forth in this Maximum Price Regulation No. 157 shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, agreement, sale, delivery, purchase, or receipt of or relating to textiles, apparel, and related items, alone or in conjunction with any other commodity or by way of commission, service, transportation, or any other charge, or discount, premium, or other privilege, or by tying agreement or other trade understanding, or otherwise.

§ 1378.7 *Enforcement.* Persons violating any provision of this Maximum Price Regulation No. 157 are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided by the Emergency Price Control Act of 1942.

§ 1378.8 *Records and reports.* (a) Every person making any sales or supplying any fabrication services subject to this Maximum Price Regulation No. 157 on and after June 4, 1942, shall keep for inspection by the Office of Price Administration for a period of not less than one year complete and accurate records of:

(1) Each such sale made or fabrication service supplied, showing the date thereof, the war procurement agency involved, the article sold or the nature of the service supplied, the quantity of goods sold or fabricated, and the price charged or received; and

(2) The highest price charged by such person prior to April 1, 1942 for delivery or supply of such article or service.

(b) Such person shall keep such records in addition to or in lieu of the records required by this section as the Office of Price Administration may from time to time require.

§ 1378.9 *Petitions for amendment.* Any person seeking a modification of any provision of this Maximum Price Regulation No. 157 may file a petition for amendment in accordance with the provisions of Procedural Regulation No. 1[2] issued by the Office of Price Administration.

[2] Supra.

§ 1378.10 *Definitions.* (a) When used in this Maximum Price Regulation No. 157, the term:

(1) "Person" indicates an individual, corporation, partnership, association, or other organized group of persons, legal successor or representative of any of the foregoing, and includes the United States, any agency thereof, any other government, or any of its political subdivisions, and any agency of any of the foregoing.

(2) "Labor cost" means the cost of labor which is properly chargeable to the article manufactured or the service supplied, determined pursuant to the seller's customary accounting policy, but shall not include executive salaries or profit.

(3) "Seller" means a person who makes a sale or supplies a fabrication service subject to this Maximum Price Regulation No. 157, and shall include any person controlling, controlled by, or under common control with such person.

(4) "Sale" means an offer to sell, a contract of sale, or a delivery pursuant to a contract of sale, but shall not include the sale of any sample.

(5) "Fabrication" and "fabrication service" mean the manufacture of an article from materials supplied in whole or substantial part by the person to whom such article, when fabricated, is supplied or delivered.

(6) "War procurement agency" includes the War Department, the Department of the Navy, the United States Maritime Commission, and the Lend-Lease Section in the Procurement Division of the Treasury Department, or any agency of any of the foregoing.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942 shall apply to other terms used herein.

§1378.10 *Effective date.* This Maximum Price Regulation No. 157 (§§ 1378.1 to 1378.10, inclusive) shall become effective June 4, 1942.

Issued this 3d day of June 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-5217; Filed, June 3, 1942; 5:00 p. m.]

Chapter XVII—Office of Civilian Defense

[Regulations 2—Supplementary Order 2]

PART 1902—INSIGNIA

SPECIFICATIONS FOR AND MANNER OF WEAR AND USE OF OFFICIAL ARTICLES

By virtue of the authority vested in me as Director of Civilian Defense by Executive Order No. 8757 dated May 20, 1941, as amended by Executive Order No. 9088 dated March 6, 1942, and Executive Order No. 9134 dated April 15, 1942, and pursuant to § 1902.2[1] of this chapter (Section 2 of Regulations No. 2 of the Office of Civilian Defense) the Director of Civilian Defense (hereinafter referred

[1] 7 F.R. 3242.

to as "the Director") prescribes the specifications for and the manner of wear and use of the following official articles embodying prescribed insignia for:

Staff Corps of the Office of Civilian Defense.
United States Citizens Defense Corps.
United States Citizens Service Corps.
Civil Air Patrol.
Civilian Defense Auxiliary Group.

Sec.

AUTHORITY: §§ 1902.51 to 1902.57, inclusive, issued under E.O. 8757, 9088, 9134; 6 F.R. 2517; 7 F.R. 1775, 2887.

§ 1902.51 *Critical materials.* Official articles, of any kind, shall not be manufactured or fabricated of materials which have been or shall be designated as critical by the War Production Board or any other government agency. The Office of Civilian Defense will not issue licenses to manufacturers who seek to use such critical materials, and will revoke all licenses granted which allow the use of materials now or hereafter designated as critical.

§ 1902.52 *Official articles for the Staff Corps of the Office of Civilian Defense.* The following articles are prescribed as official articles for wear and use by the Staff Corps of the Office of Civilian Defense, in accordance with all rules, regulations, orders or instructions issued by the Director. When worn or used by the Staff Corps of the Office of Civilian Defense in its Washington Office or Regional Offices, the Staff Corps insigne shall be superimposed on the letters "US". When worn or used by members of a State Defense Council or Local Defense Council, or by persons on the Staffs of such Councils, or of Local Volunteer Offices, a rectangle embodying the name, or abbreviation of the name, of the particular state shall be attached as a pendant.

(a) *Arm bands and brassards.* Arm bands and brassards shall be 17½ to 18 inches long and 4 inches wide. The basic insigne shall be 3½ inches in diameter and shall be placed in the center of the arm band or brassard.

(b) *Lapel pins and buttons.* Lapel pins or buttons shall be ½ inch in diameter.

(c) *Flags and banners.* The basic insigne may be embroidered or sewn on flags or banners, provided no words (except for the letters "US," the name Office of Civilian Defense, or the State or local designation) or other emblem shall be used thereon in addition to the insignia.

§ 1902.53 *Official articles for the United States Citizens Defense Corps.* The following articles are prescribed as official articles for wear and use by members of the United States Citizens Defense Corps in accordance with all rules, regulations, orders or instructions issued by the Director:

(a) *Arm bands and brassards.* All prescribed insignia may be used on arm bands and brassards, except the instructors insigne. Arm bands and brassards shall be 17½ to 18 inches long, and 4 inches wide. The insignia shall be 3½ inches in diameter and shall be placed in the center of the arm band or brassard.

(b) *Sleeve insignia for uniforms.* All prescribed insignia may be used as sleeve insignia, embroidered or woven with stitched or rolled edges. Sleeve insignia shall be 2¼ inches in diameter. Sleeve insignia shall be worn on the left sleeve, 1 inch below the shoulder seam.

(c) *Collar and cap emblems for uniforms.* All prescribed insignia may be used on collar and cap emblems of uniformed units.

(1) *Embroidered or woven.* All prescribed insignia may be embroidered or woven as emblems, 1¼ inches in diameter, with stitched or rolled edges, embroidered in red, white and blue.

(2) *Metal.* All prescribed insignia may be included on metal as emblems, or on any non-metallic substitute therefor, 1¼ inches in diameter.

(d) *Helmet emblems.* All prescribed insignia may be used on circular decalcomanias or stickers, 2¼ inches in diameter, which shall be placed on the front of helmets. All prescribed insignia may be screen stencilled, to the same dimensions, on the front of helmets.

(e) *Lapel pins or buttons.* All prescribed insignia may be used on lapel pins or buttons ½ inch in diameter.

(f) *Automobile stickers and plates.* All prescribed insignia may be included, with or without the appropriate unit name accompanying the insigne, on automobile stickers and plates. Automobile stickers and plates shall be in a circular shape, from 4 to 12 inches in diameter, or in a rectangular shape no larger than 6 inches by 12 inches. Automobile stickers and plates may be placed on any truck, automobile or other vehicle, and may be used only subject to compliance with appropriate state and local laws, ordinances, or regulations applicable to windshield or vehicle stickers.

(g) *Certificates of membership.* The basic insigne may be used on Certificates of Membership which shall conform to OCD Form No. 103.

(h) *Identification cards.* The basic insigne may be used on identification cards which shall conform to OCD Form No. 702.

(i) *Identification signs.* All prescribed insignia may be used on signs to mark the station, location, or post of enrolled members of the United States Civilian Defense Corps. Signs may contain the prescribed insigne and other material relative to the unit of which the person is a member, and any other matter considered to be appropriate by the Local Defense Council. Signs shall be placed so as to be unobstructed and clearly visible, and in accordance with all applicable State laws and local ordinances or regulations.

(j) *Flags and banners.* All prescribed insignia may be embroidered or sewn on flags or banners, provided no words (except for the letters "US", the name Office of Civilian Defense, or the State or local designation) or other emblem shall be used thereon in addition to the insignia.

§ 1902.54 *Official articles for the United States Citizens Service Corps.* The following articles are prescribed as official articles for wear and use by members of the United States Citizens Service Corps, in accordance with all rules, regulations, orders or instructions issued by the Director:

(a) *Lapel pins or buttons.* The basic insigne may be used on lapel pins or buttons 1¼ inches in diameter or ½ inch in diameter.

(b) *Sleeve insigne for uniform.* The basic insigne may be used as sleeve insigne, embroidered or woven with stitched or rolled edges. Sleeve insigne shall be 4 inches in diameter. Sleeve insigne shall be worn on the left sleeve, 1 inch below the shoulder seam.

(c) *Certificate of membership.* The basic insigne may be used on Certificates of Membership, which shall conform to OCD Form No. 703.

(d) *Flags and banners.* The basic insigne may be embroidered or sewn on flags or banners, provided no words (except for the letters "US," the name Office of Civilian Defense, or the State or local designation) or other emblem shall be used thereon in addition to the insignia.

§ 1902.55 *Official articles for the Civil Air Patrol.* The following articles are prescribed as official articles for wear and use by members of the Civil Air Patrol, in accordance with all rules, regulations, orders, or instructions issued by the Director:

(a) *Arm bands and brassards.* The basic insigne may be used on arm bands and brassards. Arm bands and brassards shall be 17½ to 18 inches long, and 4 inches wide. The insigne shall be 3½ inches in diameter and shall be placed in the center of the arm band or brassard.

(b) *Sleeve insignia for uniforms.* The basic insigne may be used as sleeve insignia, embroidered or woven with stitched or rolled edges. Sleeve insignia shall be 3 inches in diameter. Sleeve insignia shall be worn on the left sleeve, ½ inch below the shoulder seam.

(c) *Cap insignia for uniforms.* The basic insigne may be included on metal or embroidered or woven as emblems, 1¼ inches in diameter, which shall be worn on the caps of members of the Civil Air Patrol.

(d) *Wings.* Pilot and Observer wings, of metal, 2½ and 1½ inches, respectively, in length, shall be worn above the left upper blouse pocket of the uniform.

(e) *Buttons for uniforms.* The basic insigne may be used on 24 ligne and 36 ligne buttons for uniforms.

(f) *Identification cards.* The basic insigne may be used on identification cards which shall be issued and distrib-

uted by the National Commander of the Civil Air Patrol.

(g) *Aircraft insignia.* The basic insigne may be used, by painting or decalcomania, on the wings and fuselage of aircraft engaged in official Civil Air Patrol missions. The basic insigne shall be centered on the top side of the left wing and on the button side of the right wing at a point ⅓ of the distance from the wing tip to the fuselage, and the diameter of the insigne shall not exceed ⅔ of the wing chord at the point of application. The insigne on the fuselage shall be centered on both sides of the fuselage at a point ⅓ of the distance from the leading edge of the horizontal stabilizer to the trailing edge of the wing, and the diameter of the insigne shall not exceed ⅔ of the depth of the fuselage at the point of application.

(h) *Automobile stickers and plates.* The basic insigne may be included, with or without the name Civil Air Patrol, on automobile stickers and plates. Automobile stickers and plates shall be in a circular shape, from 4 to 12 inches in diameter, or in a rectangular shape no larger than 6 inches by 12 inches. Automobile stickers and plates may be placed on any truck, automobile or other vehicle, and may be used only subject to compliance with apropriate state and local laws, ordinances, or regulations applicable to windshield or vehicle stickers.

§ 1902.56 *Official articles for the Civilian Defense Auxiliary Group.* The following articles are prescribed as official articles for wear and use by members of the Civilian Defense Auxiliary Group, in accordance with all rules, regulations, orders, or instructions issued by the Director:

(a) *Arm bands and brassards.* The basic insigne may be used on arm bands and brassards. Arm bands and brassards shall be 17½ to 18 inches long and 4 inches wide. The insigne shall be 3½ inches in diameter and shall be placed in the center of the arm band or brassard.

A person in the Civilian Defense Auxiliary Group may use a word on arm bands or brassards to indicate his occupation, or profession, such word to be placed below the insigne in such a manner as not to alter or modify the insigne.

(b) *Identification cards.* The basic insigne may be used on identification cards which shall conform to OCD Form No. 701.

(c) *Automobile stickers and plates.* The basic insigne may be included, with or without the name or other identification of the occupation of the user accompanying the insigne, on automobile stickers and plates. Automobile stickers and plates shall be in a circular shape, from 4 to 12 inches in diameter, or in a rectangular shape no larger than 6 inches by 12 inches. Automobile stickers and plates may be placed on any truck, automobile or other vehicle, and may be used only subject to compliance with appropriate state and local laws, ordinances, or regulations applicable to windshield or vehicle stickers.

§ 1902.57 *General provisions as to arm bands, pins and buttons.* (a) Arm bands and brassards may be manufactured of any fabric, not designated as critical, except arm bands and brassards which are manufactured of pyroxylin fabric and which shall be manufactured in accordance with United States Army Quartermaster Corps Specifications, O. Q. M. G. No. 33 attached to and made a part of this Supplementary Order.

(b) Lapel pins and buttons shall be enameled in three coats and hard-fired on a non-critical metal or substitute thereof.

(c) Arm bands and brassards shall be worn on the left arm, mid-way between the elbow and the shoulder.

(d) Buttons shall be worn in the buttonhole of the left lapel; pins shall be worn on the left side of the garment.

[SEAL] JAMES M. LANDIS,
Director of Civilian Defense.

MAY 28, 1942.

[F. R. Doc. 42-5209; Filed, June 3, 1942; 12:41 p. m.]

[Regulations No. 3]

PART 1903—UNITED STATES CITIZENS DEFENSE CORPS

EFFECTIVE DATE

By virtue of authority vested in me by Executive Order No. 8757 dated May 20, 1941, as amended by Executive Order No. 9088 dated March 6, 1942, and Executive Order No. 9134 dated April 15, 1942, § 1903.17 of this chapter (section 17 of Office of Civilian Defense Regulations No. 3) is hereby amended to read as follows:

§ 1903.17 *Effective date.* These regulations shall become effective July 1, 1942. (E.O. 8757, 9088, 9134; 6 F.R. 2517; 7 F.R. 1775, 2887, 3244)

[SEAL] JAMES M. LANDIS,
Director of Civilian Defense.

MAY 28, 1942.

[F. R. Doc. 42-5208; Filed, June 3, 1942; 12:41 p. m.]

TITLE 36—PARKS AND FORESTS

Chapter I—National Park Service

PART 2—GENERAL RULES AND REGULATIONS

WASHINGTON MONUMENT, ELEVATOR FEES

Pursuant to the authority contained in the act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), § 2.55 (h) of Part 2, Title 36, Code of Federal Regulations, is amended by adding a new subparagraph (3) reading as follows:

§ 2.55 *Fees.* * * *

(h) *Elevator fees.* * * *

(3) A fee of ten cents shall be charged each person using the elevator in the Washington Monument, except children 16 years of age, or under, or groups of school children 18 years of age, or under, when accompanied by adults assuming responsibility for their safety and orderly conduct. (39 Stat. 535; 16 U.S.C. 3)

Approved: May 18, 1942.

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 42-5219; Filed, June 4, 1942; 9:30 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 7—RULES GOVERNING COASTAL AND MARINE RELAY SERVICES

TRANSMISSION TO FIXED POINTS

The Commission on June 2, 1942, effective immediately, amended § 7.26 *Transmission to fixed points* as follows:

§ 7.26 *Transmission to fixed points.* (a) Upon application, a coastal station open to public correspondence may be authorized to transmit press, meteorological, and marine navigational information secondarily to designated fixed points, whenever the same information is transmitted by the coastal station simultaneously and primarily to maritime mobile stations: *Provided,* A sufficient need for such authorization is shown to exist.

(b) Upon application; a coastal station open to public correspondence may be authorized to communicate regularly with duly authorized provisional stations on board vessels which are stranded or indefinitely moored at locations where other radio or wire communication facilities are not available: *Provided,* That a sufficient need for such authorization is shown to exist and that priority is given at all times to communication with properly licensed ship stations. (Sec. 4 (i), 48 Stat. 1068; 47 U.S.C. 154 (i))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 42-5235; Filed, June 4, 1942; 10:56 a. m.]

PART 11—RULES GOVERNING MISCELLANEOUS RADIO SERVICES

PROVISIONAL STATIONS

The Commission on June 2, 1942, effective immediately, amended § 11.23 *Provisional station,* and § 11.122 *Frequencies,* as follows:

§ 11.23 *Provisional station.* A provisional station means a station operating in the intermittent service for communications relative to the safety of life or property, or communications which are of practical necessity in connection with projects of benefit to the public welfare.

§ 11.122 *Frequencies.* (a) The following frequencies are allocated for use by provisional stations and are available for type A-1, A-2, and A-3 emission and

special emission for frequency modulation:

31020 kilocycles	35460 kilocycles
31180 kilocycles	37140 kilocycles
31540 kilocycles	39140 kilocycles
33460 kilocycles	39540 kilocycles
33620 kilocycles	

(b) Upon proper showing of need, the Commission may authorize the use of one or more additional frequencies for use by provisional stations, with appropriate emission and power, upon the condition that interference will not be cause to any other service and under such restrictions as may be deemed necessary.

The Commission also adopted the following new sections:

§ 11.123 *Scope of service.* A provisional station is authorized to engage in communications pertaining to the safety of life or property; *provided,* that upon proper showing of need, a provisional station may be authorized, on a secondary basis, to engage in other essential communications under restrictions and conditions set forth in the instrument of authorization.

§ 11.124 *Conditions of service.* (a) The licensee of a provisional station, upon reasonable demand by any member of the public, shall provide such communication as is permitted within the scope of service defined in § 11.123 and within the limitations of the station license and the radio communication facilities available.

(b) Provisional stations shall not operate as common carriers of communication for hire. However, licensees of provisional stations may accept contributions to capital and operating expenses from others who, under the Commission's rules, would be eligible as licensees for provisional stations, for the cooperative use of these stations on a cost-sharing basis: *Provided,* That contracts for such cooperative use are submitted to the Commission 30 days prior to the effective date thereof and that said contracts are not disapproved by the Commission.

§ 11.125 *Power.* A power exceeding 50 watts will not be authorized for provisional stations, except in cases where the applicant makes an adequate technical showing that because of exceptional conditions a power of 50 watts is insufficient to provide satisfactory communication.

§ 11.126 *Avoidance of interference.* Provisional stations shall take all reasonable precautions, including listening tests, to avoid unnecessary interference to the service of another station. (Sec. 4 (i), 48 Stat. 1068; 47 U.S.C. 154 (i)—sec. 303 (b), 48 Stat. 1082; 47 U.S.C. 303 (b))

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 42-5236; Filed, June 4, 1942; 10:56 a. m.]

[Order No. 100]

DEPRECIATION RATE REPORTS

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C. on the second day of June, 1942,

The Commission having under consideration the matter of annual depreciation rates of common carriers by wire or radio subject to the Communications Act of 1934, as amended; and

It appearing, that the Commission should be kept informed as to the annual depreciation rates of all such carriers;

It is ordered, That each and every common carrier by wire or radio subject to the Communications Act of 1934, as amended, shall, within ten days of the date of service of this Order, supply to the Commission the following information:

(1) All changes made by the carrier since December 31, 1941, in the annual depreciation rates applied, actually or in effect, to the respective balances in its several plant accounts to arrive at the amounts of the monthly depreciation charges recorded in its accounts.

(2) With respect to each composite and component depreciation rate changed since December 31, 1941, the class or subclass of plant to which applicable, the date or dates of each such change, the rate in effect immediately before and after each such change, and the basis for each such change.

It is further ordered, That each and every common carrier by wire or radio subject to the Communications Act of 1934, as amended, shall, with respect to any future change in its annual depreciation rates, and at least thirty (30) days in advance of each such change, furnish the Commission with the same kind of information concerning such change as that ordered to be furnished in paragraph numbered (2) above.

It is further ordered, That a copy of this order shall be served upon each and every common carrier by wire or radio subject to the Communications Act of 1934, as amended.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 42-5234; Filed, June 4, 1942; 10:56 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service

PART 91—ALASKA GAME REGULATIONS

POSSESSION AND TRANSPORTATION OF GAME ANIMALS BY NONRESIDENTS

Pursuant to the authority and direction contained in section 10 of the Alaska Game Law of January 13, 1925 (43 Stat. 739), as amended by acts of February 14, 1931, 46 Stat. 1111; June 25, 1938, 52 Stat. 1169, and October 10, 1940, 54 Stat. 1103 (48 U.S.C. 198); I, E. K. Burlew, Acting Secretary of the Interior, upon consultation with and recommendation from the Alaska Game Commission, and having determined when, to what extent, and by what means game animals, land fur-bearing animals, game birds, nongame birds, and nests and eggs of birds may be taken, possessed, transported, bought, or sold in Alaska, in accordance with such determinations do hereby amend paragraph (c) of regulation 9 of the regulations respecting game animals, land fur-bearing animals, game birds, nongame birds, and nests and eggs of birds in Alaska (Circular AGC-19; 6 F.R. 2913, 50 CFR 91), to the extent herein set out, and hereby adopt, effective July 1, 1942, said amended regulation as a suitable regulation permitting and governing the taking of game animals, land fur-bearing animals, game birds, nongame birds, and nests and eggs of birds in Alaska:

Regulation 9, paragraph (c) (§ 91.9), *Possession and transportation of game animals* is amended to read as follows:

§ 91.9 *Possession and transportation of game animals.* * * *

(c) *By nonresident.* A nonresident citizen or an alien who is the holder of a valid license may possess and transport within the Territory, or export, by express or freight only, when legally taken by him, not to exceed in the aggregate 2 deer, not more than 1 of which shall have been taken west of longitude 138°; 1 moose; 2 caribou; 2 mountain goats; 2 in the aggregate of large brown and grizzly bears, not more than 1 of which shall have been taken on Admiralty Island and the Kodiak-Afognak Islands Group; and 3 black bears; or any part of such animals. Before any such animal or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such animal or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally killed and is the owner of such animal or part thereof. If the shipment consists of a large brown or grizzly bear or a deer, or part thereof, the affidavit must show where in the Territory the animal was killed. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of the Interior to be affixed in the city of Washington, this 20th day of May 1942.

[SEAL] E. K. BURLEW, *Acting Secretary of the Interior.*

[F. R. Doc. 42-5223; Filed, June 4, 1942; 9:30 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[No. 38]

APPLICATIONS FOR REGISTRATION AS DISTRIBUTORS

An application for registration as a distributor has been filed by each of the following and is under consideration by the Acting Director:

Name and Address	Date application filed
Brothers Valley Coal Co., 214 Beerits' Bldg., Somerset, Pa	May 22, 1942
W. E. Bryan & Co., (W. E. Bryan), 1306 Lynn Street, Parkersburg, W. Va	May 12, 1942
Kentucky-Cumberland Coal Co., General Bldg., Knoxville, Tenn	May 20, 1942
Mayhew Coal Co., (J. T. Mayhew), 333 23d St., Ashland, Ky	May 28, 1942
Pennsylvania Coal & Coke Corp., 70 East 45th St., New York, N. Y	May 28, 1942
Seidel Coal & Coke Co., 3915 Duncan Ave., St. Louis, Mo	May 25, 1942
Shadyside Fuel Co., 713 Second Nat'l Bank Bldg., Uniontown, Pa	May 22, 1942
Thermal Coal Sales Co., (R. G. Strand), 408 Johnstown Bank Trust Bldg., Johnstown, Pa	May 16, 1942
Weir City Coal Co., (Ralph C. Wilson), Box 7, Pittsburg, Kans	May 26, 1942

Any district board, code member, distributor, the Consumers' Counsel, or any other interested person, who has pertinent information concerning the eligibility of any of the above-named applicants for registration as distributors under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors, is invited to furnish such information to the Division on or before July 6, 1942. This information should be mailed or presented to the Bituminous Coal Division, 734 15th Street NW., Washington, D. C.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5232; Filed, June 4, 1942; 10:51 a. m.]

DISTRICT BOARD NO. 16

[Docket No. A-1299]

MEMORANDUM OPINION AND ORDER DENYING TEMPORARY RELIEF

In the matter of the petition of the Bituminous Coal Producers Board for District No. 16, for temporary relief pending final decision in Docket 21, under section 4 II (a) and (d) of the Bituminous Coal Act of 1937.

This proceeding was instituted upon a petition filed with the Bituminous Coal Division by District Board No. 16. The original petition filed on February 2, 1942, requests the amendment of the Schedule of Effective Minimum Prices for District No. 16 for All Shipments so as to increase all prices, with certain few exceptions, 15 cents per ton. The original petition represents that: (1) the average realization of code members in District No. 16 from October 1, 1940, to September 30, 1941, does not equal the weighted average cost of Price Area No. 6 as determined in General Docket No. 15; (2) the average realization for code members in District No. 16 from October 1, 1940, to September 30, 1941, was less than the weighted average cost per ton for Price Area No. 6 as determined in General Docket No. 21; (3) the reason for the failure of minimum prices to achieve the realization anticipated is the increase in the proportion of small sizes now being purchased by consumers in the market areas served by code members in District 16; and (4) the present minimum prices fail to effectuate the purposes of section 4 II (b) of the Act and temporary relief is needed until a final decision is arrived at in General Docket No. 21. A supplemental petition filed on February 28, 1942, based upon the Findings of Fact, Conclusions of Law, and Opinion of the Acting Director in General Docket No. 21 and upon a compilation prepared by the Division entitled "Preliminary Summary of Mine Realization for Shipments of Bituminous Coal During the 12 Months Period Ending September 30, 1941" sets out that as to Price Area No. 6 the present minimum prices do not yield a return per net ton upon the entire tonnage of the minimum price area approximating the weighted average of the total cost per net ton, and that such deficiencies in return are in excess of the 15 cents per net ton requested as temporary relief in this proceeding.

An informal conference was held on April 17, 1942, at a hearing room of the Division in Washington, D. C. Due notice was given to all interested persons. District Boards Nos. 7 and 16 and Bituminous Coal Consumers' Counsel appeared On May 9, 1942 a supplemental petition was filed asking immediate relief and directing the attention of the Acting Director to additional testimony introduced in support of the petition for temporary relief in General Docket No. 21, with which Docket No. A-1299 has been consolidated. The testimony has been considered, as well as the additional objections to such relief brought out by Consumers' Counsel in the course of cross-examination.

STATEMENT OF FACTS AND OPINION

District 16, which is one of the three districts, comprising Minimum Price Area No. 6, embodies the coal producing counties of Adams, Arapahoe, Boulder, Douglas, Elbert, El Paso, Jackson, Jefferson, Larimer, and Weld in the State of Colorado. The annual production of bituminous coal in District 16 for the year 1941 amounted to about 1,725,000 tons. Over two-thirds of this tonnage is sold for shipment by rail.

The background of this proceeding. The facts advanced in support of the requested relief were those given by Albert Vogl and Frank A. Wachob, representatives of District Board 16.[1] In substance, the contentions advanced in support of the relief are as follows: A considerable portion of the mines in District 16 have not for some time realized the weighted average cost of the price area; several of the mines in the district are not realizing their individual costs; and several of the mines in the district are not realizing the weighted average cost of the district.

In General Docket No. 15 the weighted average cost of production for District 16 was determined to be $2.5559 and the weighted average cost for Price Area 6 was found to be $2.7389. For the year ended September 30, 1941 (first full year under minimum prices), the minimum price realization in District 16 was $2.62 per ton and the actual realization was $2.67 per ton. Minimum price realization for Price Area 6 for the same period was $2.66 and the actual realization was $2.76. In General Docket No. 21, a proceeding instituted for the purpose, among others, of determining changes in costs, it was found that the weighted average cost of production in District 16 was $2.6312, an increase of 7.53 cents per ton over the cost determined in General Docket No. 15. The weighted average cost of production for Price Area 6 was found to be $2.8367, an increase of 9.78 cents per ton over General Docket No. 15.[2] From these figures District Board 16 seeks to find support for its request for temporary relief, claiming that the minimum prices do not, as to District 16, yield a "return per net ton upon all the coal produced therein" equal to "the weighted average of the total cost per net ton" of coal produced in Minimum Price Area 6 as determined by the Acting Director in General Docket 21 and further that the deficiency in return was in excess of the 15 cents per ton requested as temporary relief in this proceeding.[3] District Board 16 further contended that it was threatened with a decrease in realization because of the tendency of District 16 producers to increase the production of smaller sized coal. Another threat to realization was said to stem directly from the present war situation. It was said that if the movement of truck coal is restricted (because of the tire shortage), a substantial tonnage of the coal now moving by truck to markets within 50 miles from the mine at prices averaging 55 cents per ton more than the average on rail shipments will move by rail, and this elimination of truck movements, it is anticipated, will decrease realization in District 16 by approximately 14.18 cents per ton.

The relief requested.[4] The relief requested is the increase in the present effective minimum prices for all the coal produced in District 16 by 15 cents per

[1] In addition to the statements made at the informal conference, a formal statement was introduced in the record of the conference on behalf of District Board 16.

[2] A study made by the district board of the actual realization for 21 mines in District 16 for the first year under minimum prices reveals that 8 of those mines producing 983,117 tons had an average realization of less than $2.6312 (the weighted average cost of District 16 found by the Acting Director in General Docket No. 21), and 6 mines with a production of 466,567 tons had a realization of less than $2.8367 (the weighted average cost of Price Area 6, as found by the Acting Director in General Docket No. 21), although it was in excess of the price area's weighted average cost.

[3] The difference between Price Area 6's weighted average cost as determined in General Docket No. 21 and minimum price realization for the first full year under minimum prices is 17.67 cents per ton.

[4] It is proposed that the requested increases apply to both rail and truck shipped coal.

ton, except (1) that produced in Subdistrict 9, (2) that produced by the Leyden Coal Company and delivered to the Denver Tramway Company, and (3) that sold as railroad locomotive fuel.

The reasons for not requesting any increase for Subdistrict 9 coals, which are not in competition with the coals of any of the other subdistricts within the District, is that its coals, for the most part, are sold in Colorado Springs, where it must meet competition from District 17. Since any increase in its prices while those of District 17 went unchanged would react unfavorably upon its competitive position, it is not proposed to increase the prices of this coal.

The coal sold the Denver Tramway Company is obtained from a wholly-owned subsidiary, the Leyden Coal Company, and is at present covered by a special exception. The affiliation between these two companies rules out any competition for the business of the Denver Tramway Company. Consequently, the 15 cents difference in price will have no effect upon the competitive opportunities of the other mines in the District.

The only railroad using District 16 coals for locomotive fuel has available to it other sources of supply. Unless prices are advanced uniformly for all the districts in which this railroad purchases coal, the mines in District 16 would be placed at a serious competitive disadvantage.

Positions of the parties. The District Board's petition requesting relief was not opposed by any code member in the district nor by any district board. In fact, the District Boards for Districts 17, 18, and 19 expressly stated that they did not oppose the granting of the requested relief.

The only opposition to the relief was that entered by the Bituminous Coal Consumers' Counsel, who opposed the relief on several grounds: To grant temporary relief to one district would be an unjustifiable discrimination against other districts and against the consumers of District 16 coal; if any discrepancies based upon a single geographical region were to be corrected, such a discrepancy should be one as between price area cost and price area realization and not as between district realization and price area cost; the realization figures show actual realization for District 16 to be higher than the costs; there is no justification for the various exceptions to the blanket increase requested; and the relief is premature for issues involved here should be determined in General Docket No. 21.

The merits of the petition. Recently, in a similar proceeding,[5] I said that "where a need for the revision of minimum prices is necessary to satisfy the standards of the Act, serious consideration must be given to the granting of relief as soon as practicable. The suggestion that revision of prices should await the final outcome of the second phase of General Docket No. 21 [6] is tantamount to saying that satisfaction of the statutory standards should be delayed even if no reason therefor, other than purely procedural, is shown. I believe that in an appropriate case a 4 II (d) petition lies to revise minimum prices in order to reflect costs where costs have been determined. This would, of course, be so whether the change necessary was an upward or downward revision."

The application of these same principles here leads to a denial of the requested relief. Unlike District 14, District 16 does not constitute a price area; instead, it is one of three districts constituting a price area. Whereas in District 14 actual realization was below General Docket No. 21 costs, in District 16 actual realization, $2.67 per ton, is almost 4 cents per ton over General Docket No. 21 costs.[7]

The fact that realization for the district fails to equal the weighted average cost of the price area is no basis for relief.[8] The Act only sets up the requirement that prices shall be set so as to "yield a return per net ton for each district in a minimum price area * * * equal * * * to the weighted average of the total costs, per net ton * * * [of the] minimum price area" for the prices proposed by each district board as a *basis for coordination.*

Section 4 II (b), which governs the coordination process, provides, however, that:

"The minimum prices proposed as a result of such coordination shall not, as to any district, reduce or increase the return per net ton upon all the coal produced therein below or above the minimum return as provided in subsection (a) of this section by an amount greater than necessary to accomplish such coordination, *to the end that the return per net ton upon the entire tonnage of the minimum price area shall approximate the weighted average of the total cost per net ton of the tonnage of such minimum price area.*"

As was stated in General Docket No. 15: [9]

"The purpose of these provisions is clear. The dominant realization standard of the Act, the 'end' to which the prices are directed, is that the realization per net ton for each *minimum price area shall,* consistently with the requirements of coordination, *approximate the weighted average cost of the minimum price area.*" (Emphasis added.)

The complaint that district realization fails to equal price area costs is not a new one. In General Docket No. 15 prices which did produce such a result were deliberately established and approved. Exceptions taken to this were disposed of as follows (page 42, Findings of Fact, Conclusions of Law, and Order of the Director in General Docket No. 15):

"But Congress did not contemplate that finally the realization for each district would really correspond to the cost of the price area. The districts differ markedly in weighted average costs both from each other and from the price area. In providing that the 4 II (a) prices, which were important primarily as setting up relationships between coals, should have a realization to each district corresponding to the cost of the price area, Congress was merely outlining a mechanics of initiating the coordination process, with its considerable changes from the 4 II (a) prices, at such a level as to facilitate consummation of coordination with the realization of each minimum price area approximating the cost of the price area."

And in *Sunshine Anthracite Coal Co.* v. *Adkins,* 310 U. S. 381, the Supreme Court recognized that the dominant realization standard is that the return per net ton for each minimum price area is equal to the weighted average cost of the minimum price area.

It is thus clear that there is nothing in a discrepancy between district realization and price area cost upon which to base a claim that present minimum prices fail to effectuate the purposes of the Act. Such claim can be based only upon a discrepancy between price area cost and price area realization and then only if such discrepancy is not justified by the necessities of coordination. This petition speaks plainly in district terms and not in price area terms.[10]

Furthermore, there is nothing in the facts to indicate that any irreparable harm will be done the producers in District No. 16 by a delay in establishing prices. Actual realization in the district based on invoice prices is almost 4 cents above weighted average costs as determined in General Docket No. 21; minimum prices, while below weighted average costs for the district by a little more than one cent, depart far less from such costs than did many of the district prices established in General Docket No. 15 from the costs of such districts.

The argument that temporary relief should be given because actual realiza-

[5] See Memorandum Opinion and Order Granting Temporary Relief in Docket No. A-1360 (April 27, 1942).

[6] The second phase of General Docket 21 will be concerned with the changes to be effected in minimum prices by virtue of the changes in cost heretofore determined. The hearing is now in progress.

[7] District 16 minimum price realization was only 1.12 cents below General Docket No. 21 costs.

[8] Price Area 6's General Docket No. 21 costs were determined to be $2.8367, or almost 17 cents above District 16 actual realization.

[9] In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations: Findings of Fact, Conclusions of Law, and Order of the Director; General Docket No. 15, p. 42.

[10] The fact that the other districts in the price area make no objection to these temporary prices does not affect the fact that the petition is primarily one based upon district needs rather than upon price area needs, as witnessed by the exception made where there is competition with other districts within the price area.

tion falls below that anticipated for the district in General Docket No. 15 does not merit serious consideration.[11] Estimates in that docket were based upon the then existing facts. If there has been a change in conditions, such as the increased use of small sizes, which has resulted in realization falling below expectations, consideration should be given to such factors in coordinating prices, but such variation does not by itself show any necessity for immediate relief.

Of little more weight is the argument that certain mines fail to realize price area costs. If this argument is untenable when made in terms of the district it becomes even more so when phrased in terms of individual mines. Moreover, as to many of these mines there is no claim made of any failure to realize individual costs.

The other reasons urged by the district boards for temporary relief, such as the tendency of minimums to become maximums in the case of industrial sizes, or the anticipated decline in truck sales, are all factors to be given serious consideration in the final establishment of prices in General Docket No. 21 but do not by themselves justify the temporary relief requested.

For the foregoing reasons, I conclude that no reasonable showing of necessity has been made for the granting of the temporary relief requested.

Now, therefore, it is ordered, That the prayer for temporary relief contained in the petition filed herein be, and the same hereby is, denied.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5237; Filed, June 4, 1942; 10:51 a. m.]

DISTRICT BOARDS IN PRICE AREAS 1, 2, AND 3

[Dockets Nos. A-1422, A-1423, A-1424]

MEMORANDUM ONINION AND ORDER DENYING TEMPORARY RELIEF

In the matter of the petition of district boards in Minimum Price Areas 1, 2, and 3 for a premliminary or temporary and permanent order for an increase in the minimum prices for coals produced in said districts.

This proceeding was instituted by a petition filed by District Board No. 11, in Docket No. A-1422, on April 21, 1942, and by petitions filed by District Boards 1, 2, 3, 4, 5, 6, and 8, in Docket No. A-1423, and by District Board No. 9, in Docket No. A-1424, on April 22, 1942. The petitions request that a temporary order be issued increasing the effective minimum prices of the coals of all code members in Minimum Price Areas 1, 2, and 3 in the amount of 20 cents per net ton for shipment into all market areas.[1]

Minimum Price Area 1 is composed of the coal-producing sections of Pennsylvania, Ohio, Michigan, Virginia, West Virginia, the eastern portion of Kentucky, the northern portion of Tennessee, and North Carolina.

Minimum Price Area 2 is composed of the coal-producing sections of western Kentucky, Illinois, Indiana, and Iowa.

Minimum Price Area 3 is composed of the coal-producing sections of Alabama, Georgia, and the southern portion of Tennessee.[2]

Petitions of intervention in Docket No. A-1422 were filed by District Boards Nos. 7, 9, 10, and 12. In Docket No. A-1423, petitions of intervention were filed by District Boards Nos. 7, 9, 10 and 13. In Docket No. A-1424, petitions of intervention were filed by District Boards Nos. 7, 11, and 12.

Available figures for Minimum Price Areas 1, 2, and 3 show the following comparison between (1) the costs that were used as a basis for the minimum prices established in General Docket No. 15, (2) the costs determined in General Docket No. 21 and (3) the realization that would have been secured if coal, sold during the first full year of minimum prices, had all moved at the established minimum prices:

	Cost per ton used in General Docket No. 15 [3]	Cost per ton found in General Docket No. 21 [4]	Minimum price realization for first year under minimum prices [5]
Minimum Price Area 1	$2.1284	$2.2503	$2.05
Minimum Price Area 2	1.7622	1.7725	1.73
Minimum Price Area 3	2.4382	2.75	2.43

[3] See pp. 186 and 187, Findings of Fact, Conclnsions of Law and Opinion of the Acting Director, dated January 27, 1942, in General Docket No. 21.

[4] General Docket No. 21 was a proceeding instituted by the Bituminous Coal Division for the purpose of determining for the various minimum price areas the extent of change, if any, in excess of 2 cents per net ton in the weighted average costs herctofore determined in Gencral Docket No. 15, and for any revision thereof as may be required by any such change in costs. The changes in cost have been determined in the first phase of the hearing by Order dated April 13, 1942. The hearing has been reopened for the purpose of completing the second phase thereof by making the necessary revisions.

[5] The source of these figures is the Preliminary Summary described in footnote 2.

Although, on the basis of this comparison, the realization that would have been secured by Minimum Price Area 1, under the minimum prices sought to be revised, is approximately 20 cents per ton less than its costs as determined in General Docket No. 21, and the realization that would have been secured by Minimum Price Area 3 is approximately 32 cents per ton less than its costs as determined in General Docket No. 21, it appears that the realization that would have been secured by Minimum Price Area 2 is only approximately 4 cents per ton less than its costs as determined in General Docket No. 21 which, in turn, are only approximately 1 cent per ton in excess of its costs as determined in General Docket No. 15. Nevertheless, it is contended by the petitioners that the summary treatment afforded by the temporary relief procedure for use in appropriate cases of necessity be utilized here, even though it would result in raising the minimum prices at which consumers may buy coals produced in Minimum Price Area 2 to a level some 15 cents per ton above the costs determined in General Docket No. 21. Indeed, Minimum Price Areas 1 and 3 affirmatively urge that the raising of the Minimum Price Area 2 level by 20 cents per ton must accompany the raising of the level for Minimum Price Areas 1 and 3 and expressly condition the request for an increase in their own prices upon the granting of a similar increase for Minimum Price Area 2.[6]

Two reasons are advanced in support of the claimed propriety of obtaining, by temporary relief, an increase of 20 cents per ton in the Minimum Price Area 2 prices. First, it is claimed that the present weighted average costs per ton for producing coal in that price area are in excess of those determined in General Docket No. 21. However, figures designed to support this claim were not introduced for any district in Price Area 2 except District 11. Secondly, it is said that increasing the prices of Minimum Price Areas 1 and 3 without a companion increase in the prices of Minimum Price Area 2 will upset the existing pattern of coordination to the competitive prejudice of producers in Minimum Price Areas 1 and 3 in that they will be disenabled, where market conditions necessitate, from offering their coal for sale at prices low enough to compete with the minimum prices for coals of Minimum Price Area 2.

In determining whether or not temporary relief should be granted in accordance with the petitions, I am unable to accept the contention that figures limited to District No. 11 afford an adequate basis for a conclusion at this time as to the extent to which increases have occurred in Minimum Price Area 2, as a whole, in the costs as determined in General Docket No. 21. Pursuant to section 4 II (b) of the Act, prices were to be pro-

[1] Although the petitions in Dockets Nos. A-1422 and A-1424 are almost identical, the former one filed on behalf of District 11 seeks a 20 cents per ton increase for the coals of code members in only Minimum Price Areas 1 and 2.

[11] The anticipated realization for District 16 was $2.75 per ton.

[2] In the first year after the establishment of effective minimum prices, Minimum Price Area 1 produced approximately 342,000,000 tons of coal, Minimum Price Area 2 produced approximately 87,000,000 tons of coal, and Minimum Price Area 3 produced approximately 16,000,000 tons of coal. Thus they comprise the largest producing area of bituminous coal in the country. These figures appear in the Preliminary Summary of Minimum Realization on Shipments of Bituminous Coal During the 12-Months' Period Ending September 30, 1941, issued by the Economics Branch of the Bituminous Coal Division under date of January 16, 1942.

[6] District Board 7 did not itself request that the relief be granted because it did not believe that the code members in District 7 needed temporary relief. It did not, however, object to the relief being granted as requested, provided that any increase made in the minimum price applicable to coals produced in that district be made equally in those prices applicable to all other districts for shipment to the market areas in which the coals produced by District 7 code members are marketed.

District 13, which is Minimum Price Area 3, was represented as willing to forego a 31 cent per ton increase in favor of securing the requested 20-cent per ton increase for the purpose of securing temporary relief herein.

posed by the District Boards so as to yield a return per ton equal, as nearly as may be, to the weighted average of the total costs of the tonnage of each *minimum price area*. So far as Minimum Price Area 2 is concerned, the use of figures, however reliable, showing increased costs of production in one of the several districts comprising that area does not provide a sufficient basis for granting an increase, by temporary relief, in prices for the entire Minimum Price Area.

Similarly, I find it necessary to reject the argument that, in the circumstances heretofore discussed, the prices of Minimum Price Area 2 should be raised, as a matter of temporary relief, in order to eliminate the possibility of any competitive prejudice whatsoever to the producers in Minimum Price Areas 1 and 3. It is recognized that even on questions of temporary relief, maintenance of the delicate balance of the relationships established in General Docket No. 15 after careful study of the sensitive competitive relationships, is, of course, of vital concern to the effective administration of the Coal Act, at least to the extent that such maintenance is of immediate concern in the light of going prices on the various kinds, qualities and sizes of coal for shipment into the various market areas. It is also apparent that it is imperative to a realistic achievement of the Congressional program of minimum price stabilization that the minimum prices be sensitive to as expeditious adjustment as possible in the light of cost changes.

I have heretofore accorded such expeditious adjustment, in an appropriate case, by the granting of temporary relief in Docket No. A–1360 by Order dated April 27, 1942, providing for an increase in prices for District 14 coals. The relief sought therein was limited to the prices of coals of the Minimum Price Area in which the costs of production were shown to be in excess of the realization provided by minimum prices. In the present proceeding, however, an increase is sought not only for Price Areas in which costs have been established to be in excess of the realization provided by minimum prices, but also for a Price Area in which a similar lack of equivalence between cost and realization has not been demonstrated. In such a situation, the desirability of expeditious adjustment of minimum prices for established cost changes together with a maintenance of the minimum price relationships between Price Areas established in General Docket No. 15 must be carefully weighed in the light of the statutory mandate that the price stabilization program be achieved with "due regard to the interests of the consuming public." Furthermore, the second phase of General Docket No. 21, devoted to a determination of the adjustments in minimum prices that should be made to reflect cost changes, may be expected to proceed expeditiously.

A careful weighing of all these considerations impels me to the conclusion that the requests for the issuance of an order providing an increase of 20 cents per ton in the minimum prices for the coals produced in Minimum Price Area 2 must be denied. Since Minimum Price Areas 1 and 3 have conditioned their requests upon the granting of a 20-cent per ton increase in the Minimum Price Area 2 level, this determination compels the entry of an order denying the petitions.

I express no opinion upon a request for such alternative form of temporary relief as petitioners may determine to request; the foregoing opinion is strictly limited to a denial of the relief as requested. Should the petitioners see fit, in the light of the present competitive situation on the various kinds, qualities, and sizes of coal for shipment into the various market areas, to modify their requests for temporary relief so as to limit such requests to increases, for the various price areas, designed to accomplish a realization for those price areas not in excess of their established costs, such requests will of course receive the consideration which the precise conditioning of the present petitions, as clarified at the conference, was apparently intended to preclude.

Nothing contained herein is intended as the expression of any opinion or judgment as to the appropriate method, by which, on the basis of the record to be made in General Docket No. 21, prices should be adjusted in the light of the cost equivalence, coordination, and consumer protection standards of the Coal Act.

It is ordered, therefore, That the requests of petitioners for relief in Dockets Nos. A–1422, A–1423, and A–1424 be, and the same hereby are, denied.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42–5238; Filed, June 4, 1942; 10:54 a. m.]

[Docket No. B–221]

LONE STAR COAL COMPANY, INCORPORATED

ORDER GRANTING APPLICATION FOR RESTORATION OF CODE MEMBERSHIP

A complaint dated January 15, 1942, having been duly filed on January 17, 1942, by the Bituminous Coal Producers Board for District No. 11, complainant, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, alleging violation by Lone Star Coal Company, Incorporated, code member in District No. 11, of the Bituminous Coal Code or rules and regulations thereunder; and

An Order based upon an amended application filed with the Bituminous Coal Division (the "Division") by said Lone Star Coal Company, Incorporated for the disposition of this proceeding without formal hearing, pursuant to § 301.132 of the Rules of Practice and Procedure before the Division, having been entered herein on May 5, 1942, revoking and cancelling the code membership of said Lone Star Coal Company, Incorporated effective twenty (20) days from the date of service of said Order upon said code member, and providing that prior to its restoration to membership in the Code said Lone Star Coal Company, Incorporated should pay to the United States Government a tax in the amount of $461.32 as provided in section 5 (c) of the Act; and

Said Order of Revocation and Cancellation dated May 5, 1942, having been served upon said code member on May 8, 1942; and

The said Lone Star Coal Company, Incorporated having filed with the Division on May 27, 1942, its application for restoration of its code membership; and

It appearing from said application and other information in the possession of the Division that said Lone Star Coal Company, Incorporated, on May 13, 1942, paid to the Collector of Internal Revenue at Indianapolis, Indiana, the sum of $461.32, pursuant to said Order dated May 5, 1942.

Now, therefore, it is ordered, That the application of said Lone Star Coal Company, Incorporated, filed herein on May 27, 1942, for restoration of its code membership be and the same is hereby granted;

It is further ordered, That the restoration of the code membership of said Lone Star Coal Company, Incorporated shall become effective simultaneously with the effective date of said Order Revoking and Cancelling its code membership.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42–5239; Filed, June 4, 1942; 10:55 a. m.]

[Docket No. B–129]

R. B. MORPHEW, APPLICANT

ORDER GRANTING APPLICATION FOR RESTORATION OF CODE MEMBERSHIP

A written complaint dated October 24, 1941, having been filed on October 30, 1941, by the Bituminous Coal Producers Board for District No. 13, complainant, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), alleging wilful violation by R. B. Morphew, Natural Bridge, Alabama, of the Bituminous Coal Code or rules and regulations thereunder; and

An Order, after hearing on the said complaint, having been issued herein on April 9, 1942, revoking the code membership of the said R. B. Morphew, effective fifteen (15) days from the date of said Order, and said Order having been duly served on the said R. B. Morphew on April 14, 1942; and

The said R. B. Morphew having filed with the Division on May 21, 1942, his application for restoration of his code membership to become effective simultaneously with the effective date of said cancellation and revocation of his code membership; and

It appearing from said application and other information in the possession of the Division that the said R. B. Morphew has paid to the Collector of Internal Revenue at Birmingham, Alabama, on April 24, 1942, the sum of $56.67 pursuant to

said Order dated April 9, 1942, as a condition precedent to the restoration of his code membership.

Now, therefore, it is ordered, That said application of R. B. Morphew filed May 21, 1942, for restoration of his code membership be, and the same hereby is, granted.

It is further ordered, That said restoration of the code membership of R. B. Morphew be effective simultaneously with the effective date of said order revoking and cancelling code membership.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5240; Filed, June 4, 1942; 10:55 a. m.]

[Docket No. 1790-FD]

SOUTH PITTSBURG COAL COMPANY

ORDER GRANTING LEAVE TO FILE AMENDED AND SUPPLEMENTAL COMPLAINT

The Bituminous Coal Producers Board for District No. 13, complainant in the above-entitled matter, having by motion dated May 11, 1942 filed with the Division on May 18, 1942, requested leave to file its amended and supplemental complaint herein; and

Said amended and supplemental complaint dated May 11, 1942 having been received by the Division on May 18, 1942; and

The Acting Director deeming it advisable that said motion for leave to file said amended and supplemental complaint herein be granted:

Now, therefore, it is ordered, That leave be, and the same hereby is, granted to the complainant herein to file its amended and supplemental complaint dated May 11, 1942 in the above-entitled matter.

Dated: June 2, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5241; Filed, June 4, 1942; 10:54 a. m.]

[Docket No. 1556-FD]

IN THE MATTER OF Q. C. TAYLOR

ORDER APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT, THE PROPOSED CONCLUSIONS OF LAW, AND RECOMMENDATION OF THE EXAMINER, AND ORDER TO CEASE AND DESIST

This proceeding was instituted upon a complaint filed with the Bituminous Coal Division on February 6, 1941, by the Bituminous Coal Producers Board for District No. 7, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937. The complaint alleges that Q. C. Taylor, a code member in District No. 7, wilfully violated the Bituminous Coal Code or the rules and regulations thereunder, and prays that the Division either cancel and revoke the code member's membership in the Code or, in its discretion, direct the code member to cease and desist from violations of the Code and the rules and regulations thereunder.

After due notice to interested persons, a hearing in this matter was held on January 22, 1942, before Charles S. Mitchell, a duly designated Examiner of the Division, at a hearing room thereof in Charleston, West Virginia. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard. An appearance was entered by code member through counsel.

Examiner Mitchell submitted on April 24, 1942, his Report, Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation. He found that Q. C. Taylor, a code member in District No. 7, operating the Taylor No. 1 Mine, Mine Index No. 611, sold, on November 16, 1940, 7.35 tons of ¾" screenings and coals produced at the aforesaid mine at a price of $1.00 per ton f. o. b. the mine. The Examiner found that the applicable minimum price established in the Schedule of Effective Minimum Prices for District No. 7 for Truck Shipment was $1.85 per ton f. o. b. the mine. The Examiner concluded that code member had wilfully violated section 4 II (e) of the Bituminous Coal Act of 1937. He recommended that Taylor be required to cease and desist from violating the schedule of effective minimum prices and from otherwise violating the Act, the Code, and the Marketing Rules and Regulations.

An opportunity was afforded to all parties to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendation of the Examiner, and supporting briefs. No exceptions or supporting briefs have been filed.

The undersigned has determined that the proposed findings of fact and proposed conclusions of law of the Examiner in this matter should be approved and adopted as the findings of fact and conclusions of law of the undersigned.

Now, therefore, it is ordered, That the said proposed findings of fact and proposed conclusions of law of the Examiner be, and they hereby are, approved and adopted as the findings of fact and conclusions of law of the undersigned.

It is further ordered, That Q. C. Taylor, code member, his representatives, agents, servants, employees, attorneys, successors or assigns, and all other persons acting or claiming to act in his behalf, cease and desist and they are hereby permanently enjoined and restrained from selling coal at prices below the applicable effective minimum prices or from otherwise violating the Bituminous Coal Act of 1937, the Bituminous Coal Code, the Marketing Rules and Regulations, and the Schedule of Effective Minimum Prices for District No. 7 For Truck Shipment.

It is further ordered, That upon the failure or neglect of the code member to comply with this Order, the Division may forthwith apply to a Circuit Court of Appeals or take other appropriate action for the enforcement of this Order.

Dated: June 2, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5242; Filed, June 4, 1942; 10:54 a. m.]

[Docket No. A-1409]

PETITION OF CARL NYMAN

ORDER POSTPONING HEARING

In the matter of the petition of Carl Nyman, a code member in District No. 20 for revision in the minimum prices for the coals, for truck shipment, produced from the National Mine (Mine Index No. 179) in District No. 20, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

The original petitioner in the above-entitled matter having notified the Division in writing that he will be unable to attend or be represented at the hearing scheduled herein on June 4, 1942, in Washington, D. C.; and

District Board No. 20 having, on May 25, 1942, filed herein a petition of intervention and also a motion that the hearing in this matter be postponed and good cause appearing for such postponement;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be postponed from June 4, 1942 until July 21, 1942, at the place heretofore designated and before the officers heretofore designated to preside at said hearing.

The time for filing petitions of intervention in the above-entitled matter is hereby extended until July 16, 1942.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42-5244; Filed, June 4, 1942; 10:54 a. m.]

[Docket No. D-20]

PEABODY COAL COMPANY

NOTICE OF AND ORDER FOR HEARING

In the matter of the application of Peabody Coal Company for permission to receive sales agents' commissions on coal sold to Crerar Clinch Coal Company; Hawthorn Fuel Company; Hawthorn Coal Company; Cook County Coal and Ice Company, and its subsidiaries, Everett Coal and Coke Company, Davis Coal and Coke Company and Suburban Ice and Fuel Company; and John P. Collins Fuel Company.

The Peabody Coal Company, a corporation organized under the laws of Illinois with its principal offices in Chicago, Illinois, acting as sales agent for certain code member producers, filed its petition praying:

1. For a determination that the "ownernship and control", between applicant and the purchasers listed below, as set forth in said petition, is bona fide, was not established to secure an indirect price reduction, and is not within the prohibitions of paragraphs 11 and 12 of section 4, Part II (i) of the Bituminous Coal Act;

2. "That commissions on the sales of coal to said purchasers as aforesaid may be allowed and paid, and petitioner may have such other order as may be just and equitable."

The purchasers above referred to are:

Name and address

Crerar Clinch Coal Company, Chicago, Illinois.

Hawthorn Fuel Company, Minneapolis, Minnesota.

Hawthorn Coal Company, St. Louis, Missouri.

Cook County Coal and Ice Company, and its subsidiaries, Everett Coal and Coke Company, Davis Coal and Coke Company, and Suburban Ice and Fuel Company, Cook County, Illinois.

John P. Collins Fuel Company, Chicago, Illinois.

It is, therefore, ordered, That a hearing on such matter be held on July 8, 1942, at 10 a. m. in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 15th Street, NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, take evidence, to continue said hearing from time to time, and to prepare and submit proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to such petitioner and to any other person who may have an interest in such proceeding. Any person desiring to be heard at such hearing shall file a notice to that effect with the Bituminous Coal Division on or before June 29, 1942, setting forth therein the nature of his interest and a concise statement of the matter or matters which he intends to present.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

Dated: June 3, 1942.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 42–5243; Filed, June 4, 1942; 10:56 a. m.]

General Land Office.

FIVE-ACRE TRACT CLASSIFICATION NO. 20, CALIFORNIA

MAY 29, 1942.

On May 15, 1942, the vacant public land in the following-described area, in the Los Angeles, California, land district, was classified and opened by the Secretary of the Interior under the five-acre act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), for leasing as home, cabin, health, convalescent, and recreational sites. The classification does not include use of any of the land as camp or business sites.

CALIFORNIA NO. 13

SAN BERNARDINO, MERIDIAN

T. 11 S., R. 3 E., sec. 22, lot 1.

The land embraced in this tract is located in San Diego County, approximately 60 miles by road northeast from San Diego and about three miles east of Lake Henshaw.

The tract has been divided into four units, and is subject to application according to such units, under the five-acre act, based on the above-mentioned classification, by any qualified persons, in accordance with 43 CFR 257.1–257.25 (Circ. 1470, June 10, 1940.) One application under the act has been received.

The Register of the Los Angeles district land office will make appropriate notations upon the records of his office and acknowledge receipt hereof.

FRED W. JOHNSON,
Commissioner.

[F. R. Doc. 42–5220; Filed, June 4, 1942; 9:30 a. m.]

CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, MAY 30, 1942

Important. The apportioned classified Civil Service includes central offices physically located in Washington, D. C., or elsewhere. Positions in local post offices, customs districts and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his state of original residence. Certifications of eligibles are first made from states which are in arrears.

IN ARREARS

State	Number of positions to which entitled	Number of positions occupied: Permanent	War service after 3/15/42	Total
1. Virgin Islands	19	0	0	0
2. Puerto Rico	1,401	54	0	54
3. Hawaii	317	25	0	25
4. Alaska	54	14	0	14
5. California	5,179	1,559	9	1,568
6. Louisiana	1,772	729	0	729
7. Michigan	3,941	1,625	2	1,627
8. Arizona	374	182	0	182
9. Texas	4,810	2,516	7	2,523
10. Georgia	2,242	1,340	1	1,341
11. Kentucky	2,134	1,226	1	1,227
12. Alabama	2,124	1,258	5	1,263
13. South Carolina	1,424	865	1	866
14. Ohio	5,179	3,196	16	3,212
15. Mississippi	1,637	1,062	2	1,064
16. Arkansas	1,462	997	0	997
17. North Carolina	2,678	1,928	1	1,929
18. Nevada	83	59	1	60
19. New Jersey	3,119	2,286	13	2,299

IN ARREARS—Continued

State	Number of positions to which entitled	Number of positions occupied: Permanent	War service after 3/15/42	Total
20. Indiana	2,570	1,970	4	1,974
21. Oregon	817	645	1	646
22. Tennessee	2,186	1,774	1	1,775
23. New Mexico	399	324	1	325
24. Illinois	5,921	4,847	7	4,854
25. Florida	1,423	1,189	5	1,194
26. Connecticut	1,282	1,099	4	1,103
27. Idaho	393	341	1	342
28. Wisconsin	2,352	2,048	7	2,055
29. Washington	1,302	1,137	3	1,140
30. Delaware	200	176	1	177
31. Rhode Island	535	521	1	522
32. Vermont	269	263	1	264

IN EXCESS

33. Pennsylvania	7,423	7,568	8	7,576
34. Missouri	2,838	2,899	2	2,901
35. Utah	413	423	0	423
36. West Virginia	1,426	1,502	3	1,505
37. New Hampshire	368	391	1	392
38. Massachusetts	3,236	3,448	7	3,455
39. Maine	635	700	1	701
40. Oklahoma	1,752	2,107	1	2,108
41. Colorado	842	1,064	1	1,065
42. Minnesota	2,094	2,674	7	2,681
43. Iowa	1,903	2,443	1	2,444
44. Montana	419	544	1	545
45. Wyoming	188	248	0	248
46. New York	10,106	13,698	31	13,729
47. Kansas	1,350	1,994	1	1,995
48. North Dakota	481	734	0	734
49. Virginia	2,008	3,309	3	3,312
50. South Dakota	482	890	1	891
51. Nebraska	987	1,953	2	1,955
52. Maryland	1,365	3,607	4	3,611
53. District of Columbia	497	10,883	6	10,889

Gains	6,116
Losses	851
Total appointments	100,511

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Sec. 3, Rule VII, and the Attorney General's Opinion of August 25, 1934, 22,143.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 42–5218; Filed, June 4, 1942; 9:16 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[File No. T3–PE–4345]

GEOTECHNICAL CORPORATION

In re application of The Geotechnical Corporation (New), dated May 8, 1941; class of service, experimental; class of station, Class 2 (Geological); location, portable-mobile.

Operating assignment specified: frequencies, 61,000, 62,000, 63,000, 64,000, 65,000, 66,000 kcs.; power, 5 watts; emission, special for frequency modulation; hours of operation, intermittent (day only).

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the legal, technical, financial and other qualifications of the

applicant to construct and operate the proposed stations.

2. To determine the exact program of experimentation proposed.

3. To determine the suitability of the frequencies 61,000, 62,000, 63,000, 64,000, 65,000, and 66,000 kilocycles for geophysical service.

4. To determine whether interference would result to other services from use of the requested frequencies for geophysical service as proposed.

5. To determine whether or not the Commission's Rules, particularly those governing miscellaneous radio services, should be amended so as to provide for use of these frequencies for geophysical radio service.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows: The Geotechnical Corporation, 1702 Tower Petroleum Building, Dallas, Texas.

Research Laboratory, P. O. Box M, Lincoln, Massachusetts.

Dated at Washington, D. C., June 1, 1942.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 42-5233; Filed, June 4, 1942; 10:56 a. m.]

OFFICE OF DEFENSE TRANSPORTATION.

[Amendment 1 to Special Order O. D. T. No. B-1]

NEW YORK CITY-WASHINGTON, D. C. MOTOR PASSENGER SERVICE COORDINATION

Directing coordinated operation of passenger carriers by motor vehicle between New York, New York and Washington, D. C.

Upon further consideration of the application for authority to coordinate motor vehicle service in the transportation of passengers, filed with this Office by Safeway Trails, Inc., Washington, D. C., Eastern Trails, Inc., Washington, D. C., Quaker City Bus Company, Camden, New Jersey, and Pennsylvania Greyhound Lines, Inc., Cleveland, Ohio, paragraphs numbered 2 and 3 of Special Order O. D. T. No. B-1 [1] are hereby amended as follows:

2. (a) Eastern Trails, Inc., through lease or other arrangement, is directed to make available to the other carriers its operating authority within the State of New Jersey on the routes now served by such other carriers.

(b) Pennsylvania Greyhound Lines, Inc., is directed to suspend its service over U. S. Highway No. 1 between Philadelphia, Pennsylvania, and Baltimore, Maryland, and by lease or other arrangement to transfer to Safeway Trails, Inc., and Eastern Trails, Inc., its operating authority on such route between and within the States of Pennsylvania and Maryland. Safeway Trails, Inc., through lease or other arrangement, is directed to make available to Eastern Trails, Inc., its operating authority on such route within the States of Pennsylvania and Maryland.

(c) Safeway Trails, Inc., is directed to suspend its service over the U. S. Highway Nos. 13 and 40 between Philadelphia, Pennsylvania, and Baltimore, Maryland, and by lease or other arrangement transfer to Pennsylvania Greyhound Lines, Inc., its operating authority on such route.

(d) Pennsylvania Greyhound Lines, Inc., through lease or other arrangement, is directed to make available to Safeway Trails, Inc., and Eastern Trails, Inc., its operating authority within the State of Maryland, on the routes now served by such carriers between Baltimore, Maryland, and Washington, D. C.

3. Safeway Trails, Inc., Eastern Trails, Inc., Quaker City Bus Company, and Pennsylvania Greyhound Lines, Inc., forthwith shall file:

(a) With the Interstate Commerce Commission and with each appropriate State regulatory body, and publish, in accordance with law, and continue in effect until further order, tariffs or appropriate supplements to filed tariffs, setting forth the changes in the fares, charges, operations, rules, regulations and practices of each carrier, which will be required to comply with the provisions of this order, and forthwith shall apply to said Commission and regulatory bodies for special permission for such tariffs or supplements to become effective on one day's notice; and

(b) With the Interstate Commerce Commission and with each appropriate State regulatory body a notice describing the operations which will be suspended by each carrier in compliance with the provisions hereof, together with a true copy of this order.

[1] 7 F.R. 3863.

This amendment shall become effective June 3, 1942.

Issued at Washington, D. C., this 2d day of June 1942.

JOSEPH B. EASTMAN, *Director of Defense Transportation.*

[F. R. Doc. 42-5251; Filed, June 4, 1942; 11:29 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order 2 under Supplementary Regulation 1 [1] to General Maximum Price Regulation]

J. B. SHELNUTT SALVAGE COMPANY

APPROVAL OF REGISTRATION; EXCEPTION GRANTED

An opinion in support of this order has been issued simultaneously herewith and has been filed with the Division of the Federal Register.

The following company has registered with and been approved by the Office of Price Administration as engaging solely in the reconditioning and sale of damaged commodities received from insurance companies, transportation companies or agencies of the United States Government:

J. B. Shelnutt Salvage Co., 105-107-109 N. Bullitt Street, Louisville, Kentucky.

Pursuant to the authority vested in the Administrator by the Emergency Price Control Act of 1942 it is hereby ordered:

(a) That sales or deliveries by the J. B. Shelnutt Salvage Co., Louisville, Kentucky be, and the same hereby are excepted from the General Maximum Price Regulation in accordance with § 1499.26 (b) (1) of Supplementary Regulation No. 1 to the General Maximum Price Regulation.

(b) This Order No. 2 shall become effective June 4, 1942.

Issued this 3d day of June 1942.

LEON HENDERSON, *Administrator.*

[F. R. Doc. 42-5216; Filed, June 3, 1942; 4:59 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-553]

UTILITIES POWER & LIGHT OPERATING CORPORATION

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 2d day of June 1942.

Notice is hereby given that a declaration has been filed with this Commission pursuant to the Public Utility Holding

[1] 7 F.R. 3158, 3488.

Company Act of 1935 by the above-named party; and

Notice is further given that any interested person may, not later than June 19, 1942, at 5:30 P. M., E. W. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration, as filed or as amended, may become effective, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pa.

All interested persons are referred to said declaration which is on file in the office of said Commission, for a statement of the transaction therein proposed, which is summarized below:

Utilities Power & Light Operating Corporation, a wholly-owned subsidiary of Ogden Corporation which is a registered holding company, proposes to dissolve and to distribute its remaining assets, consisting of cash and an account receivable and aggregating $10,000, to Ogden Corporation as a liquidating dividend.

The declaration recites that the Company considers section 12 (c) of the Act and Rule U-46 as being applicable to the transaction.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-5221; Filed, June 4, 1942; 9:30 a. m.]

[File No. 70-554]

DERBY GAS & ELECTRIC CORPORATION

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 2nd day of June 1942.

Notice is hereby given that an application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party; and

Notice is further given that any interested person may, not later than June 19, 1942, at 5:30 P. M., E. W. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such application, as filed or as amended, may become effective, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pa.

All interested persons are referred to said application, which is on file in the office of said Commission, for a statement of the transaction therein proposed, which is summarized below:

Derby Gas & Electric Corporation, a subsidiary of Ogden Corporation which is a registered holding company, proposes to acquire 48 shares of common stock, without par value of The Derby Gas and Electric Corporation of Connecticut, a corporation of the State of Connecticut, for $1,016.40 in cash.

The application recites that the Company considers sections 9 (a) and 10 of the Act as being applicable to the transaction.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-5222; Filed, June 4, 1942; 9:31 a. m.]